

# **EXHIBIT C**

ATTORNEYS & COUNSELORS  
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Houston, Texas 77010  
(713) 752-4200 • fax (713) 752-4221  
www.jw.com



JACKSON WALKER L.L.P.

Mark A. Tidwell  
(713) 752-4578  
mtidwell@jw.com

October 13, 2003

BY REGULAR MAIL AND  
BY TELECOPY: 210/558-9509

Mr. Charles W. Hanor  
Charles W. Hanor, P.C.  
750 Rittiman Road  
San Antonio, TX 78209

Re: Infringement of Bob Berg Intellectual Property by Double J Saddlery

Dear Mr. Hanor:

I am in receipt of your letter of October 7, 2003 in which you request additional information about Mr. Berg's claims against Double J Saddlery. Mr. Berg's designs and his jewelry have been registered with the U.S. Copyright Office under Nos. VA-530-294, VA-547-192, VAu-292-803, VA-817-815, VA-1-076-361, VA-1-091-617, VA-1-096-096, VA-1-108-395 and VA-1-159-548. These registrations include issue dates in 1992, 1993, 1994, 1996, 2000, 2001 and 2002. Almost every piece protected by these registrations exhibits the "Berg Elements". Reg. No. VA-1-091-617 alone covers over 400 designs.

Each of the jewelry pieces shown on "Examples of Bob Berg Jewelry" attached to my September 30, 2003 letter to your client is encompassed by Reg. No. VA-1-091-617. In addition, attached hereto is an expanded listing of such pieces. This should be sufficient to demonstrate the scope of Mr. Berg's copyright coverage, enable your clients to identify those pieces which are infringing and cease the sale of such items.

You stated in your letter that the "Berg Elements" exhibited in your client's pieces are not unique and you referenced HyOSilver as an example of another company selling pieces incorporating the Berg Elements. First, the fact that other entities are infringing Mr. Berg's rights does not mitigate your client's infringement. Second, Mr. Berg has already filed suit in federal district court against HyOSilver and others, alleging, among other things, copyright infringement and trade dress infringement. Third, the fact that you referenced one of the primary infringers of Mr. Berg's rights suggests that your client has a pretty good understanding of the basis for Mr. Berg's complaint against your client. I hope this understanding will prompt your client to take corrective action more quickly.

Austin  
Dallas  
Fort Worth  
Houston  
Richardson  
San Angelo  
San Antonio

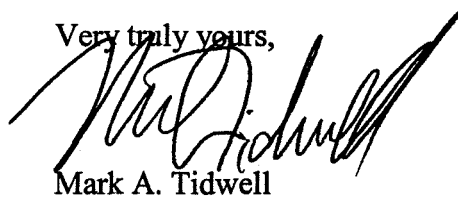
Mr. Charles W. Hane  
October 13, 2003  
Page 2

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Finally, Section 43(a) of the Lanham act is based on "likelihood of confusion." Mr. Berg's jewelry has a unique look that distinguishes his jewelry from others in the marketplace. To the extent Double J Saddlery is distributing jewelry that exhibits this same unique look, a likelihood of confusion under Section 43(a) exists between Mr. Berg's jewelry and Double J Saddlery's jewelry.

I look forward to your confirmation that Double J Saddlery has stopped all marketing activities related to the infringing pieces.

Very truly yours,

A handwritten signature in black ink, appearing to read "Mark A. Tidwell", written over the typed name.

Mark A. Tidwell

Enclosures

Circle Y of Yoakum, Inc.  
Page 4  
September 30, 2003

bcc: Bob Berg Jewelry  
Linda Cole, Esq. (Firm)  
(w/enclosures)

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Mark A. Tidwell  
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mtidwell@jw.com

September 30, 2003

**VIA CERTIFIED MAIL**  
**RRR #7160 3901 9844 3624 8605**

Circle Y of Yoakum, Inc.  
201 West Morris St.  
Yoakum, TX 77995

Re: Infringement of Bob Berg Intellectual Property

Dear Sir:

This firm represents Bob Berg Buckles ("**Berg**") in connection with copyright, trademark, unfair competition and certain other matters. Berg has been designing and selling originally designed western jewelry, including belt buckles and trophies, since the late 1970s. During that time, Berg has secured copyright protection for his jewelry designs, and the distinctive designs have become uniquely recognizable by the public as originating with Berg. Berg's jewelry is well known to the consuming public as characterized by heavy, raised, half-rounded edges on which are set one or more oversized, tapered beads; vine/leaf scrollwork, often layered or stacked to provide a 3-dimensional effect; and a black background setting-off and highlighting the scrollwork (the "**Berg Elements**"). Examples of Berg's jewelry incorporating the Berg Elements are attached.

Any jewelry pieces incorporating the Berg Elements that your company is making, selling and otherwise distributing are an infringement of Berg's copyrights and product configuration rights in violation of federal and state statutes and laws. In this regard, it has come to our attention that you are distributing infringing items at various rodeos and shows throughout the country, including the Houston Livestock Show and Rodeo. Therefore, we demand that you immediately cease and desist from all such infringing activity.

Berg's copyrights arise under 17 U.S.C. § 102(a) of the federal copyright statute and have been registered in accordance with 17 U.S.C. § 408. While Berg has secured a number of copyrights covering his jewelry designs over the years, U.S. Copyright Reg. No. VA-1-091-617, which issued on June 12, 2000, is his most comprehensive registration covering a wide array of Berg's jewelry. Any use, sale or other distribution of jewelry similar to Berg's jewelry is a violation of Berg's exclusive rights under 17 U.S.C. § 106 and § 113 which grant to Berg the right, among other things, to reproduce the copyrighted work, to distribute copies of the copyrighted work and to publicly display the copyrighted work. We would point out that under 17 U.S.C. § 501 of the federal copyright statute, "substantial similarity" between competing works, particularly where a competitor's work was copied, is an indication of copyright infringement.

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Circle Y of Yoakum, Inc.

Page 2

September 30, 2003

Remedies for copyright infringement can include temporary and permanent injunctions under 17 U.S.C. § 502, impounding and disposition of infringing articles under 17 U.S.C. § 503 and damages under 17 U.S.C. § 504. To be clear, damages may be assessed, at the election of the copyright holder, based on 1) the copyright owner's actual damages *plus* any additional profits of the infringer or 2) statutory damages of up to \$30,000 *per* infringing design. This amount of \$30,000 *per* infringing design inflates to \$150,000 *per* infringing design if such infringement is proven to be willful. Finally, the prevailing copyright holder in a copyright infringement action is entitled to receive reasonable attorney's fees incurred in enforcing said rights.

Likewise, your distribution and sale of jewelry having a confusingly similar design to Berg's jewelry is a clear violation of the federal Lanham Act, 15 U.S.C. § 1125(a), for unfair competition, palming off and trademark infringement, as well as common law trademark infringement. Through longstanding use, the Berg Elements as they are incorporated into Berg's product designs have achieved widespread regional and national recognition as a product configuration designating high-quality jewelry. This recognition was achieved through extensive marketing and advertising efforts. The public recognition and goodwill embodied in the Berg Elements is threatened and eroded by your continued unauthorized use. Specifically, your use of a product design incorporating the Berg Elements, or any elements confusingly similar thereto, unfairly trades on my client's goodwill, and is likely to cause confusion, mistake or deception as to the source and quality of your products and authorization, license or sponsorship by Berg, all of which is in violation of Section 43(a) of the federal Lanham Act. Such usage also dilutes my client's mark in violation of 43(c) of the Lanham Act. 15 U.S.C. § 1125. In this regard, Berg is very willing to enforce its rights in the Berg Elements via local Federal District Court and Texas State Court.

Under these various causes of action, Berg will strictly enforce its rights relating to its copyrights, product configuration rights and trademark rights. Although Berg respects the rights of others to fairly compete in the marketplace, any practice of preying on the confusion of customers through the use of Berg Elements in product designs will not be tolerated. Berg regards any further or additional use of the Berg Elements, or any device similar thereto, in your jewelry as "intentional" acts for which treble damages and attorney's fees will be claimed under the Lanham Act if this matter goes to court. Likewise, under separate causes of action, Berg will seek equitable and monetary damages from any party who produces jewelry substantially similar to Berg's copyright protected jewelry designs.

Therefore, we must insist that you immediately cease and desist from all use of the Berg Elements, or anything confusingly similar thereto, in your jewelry designs. If these steps are not taken on a prompt and voluntary basis, we will advise Berg to seek immediate injunctive relief, damages and/or other appropriate remedies.

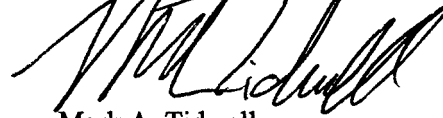
In view of the importance of this matter to our client, please respond by October 10, 2003, advising of your intention to comply with the above demands and adequate means for providing proof of destruction of all infringing goods and materials. We also require a complete accounting of all infringing goods sold and payment of damages for such sales. If you comply with these demands, we will consider this matter closed.

Circle Y of Yoakum, Inc.  
Page 3  
September 30, 2003

This letter is written without prejudice to our client's rights and remedies, all of which are expressly reserved.

Very truly yours,

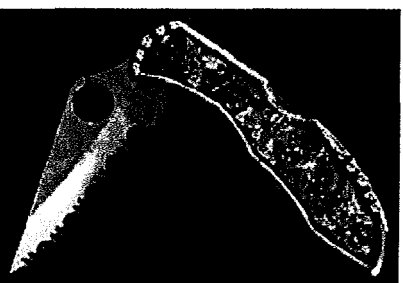
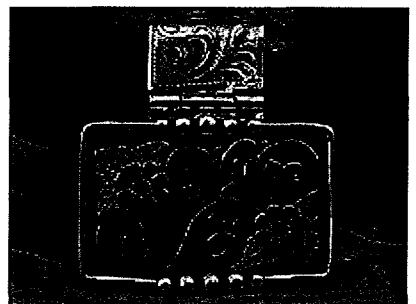
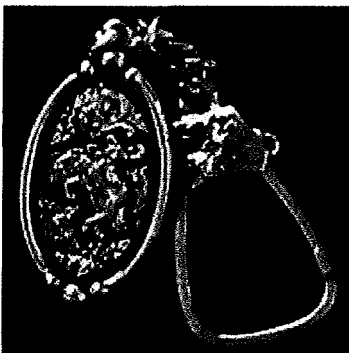
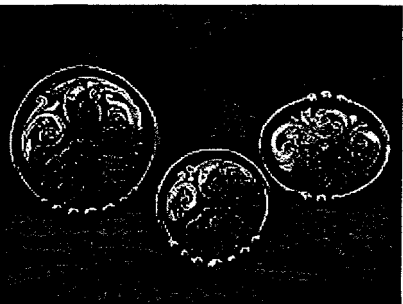
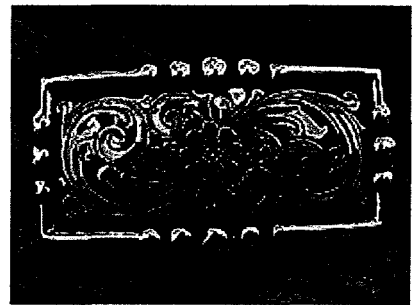
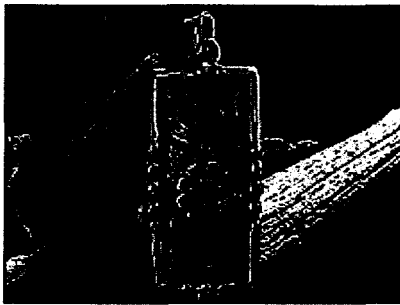
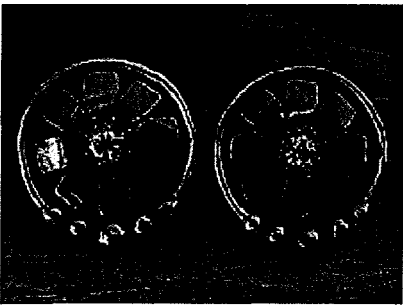
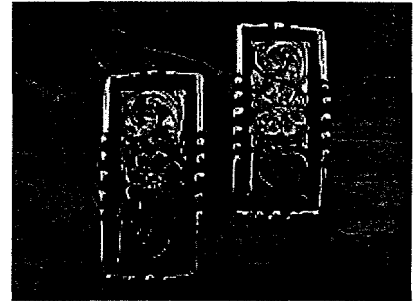
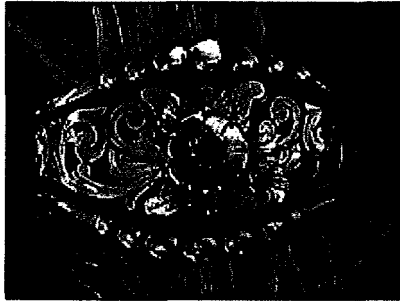
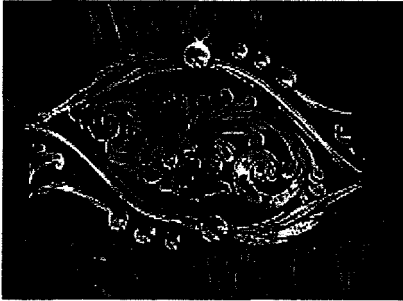
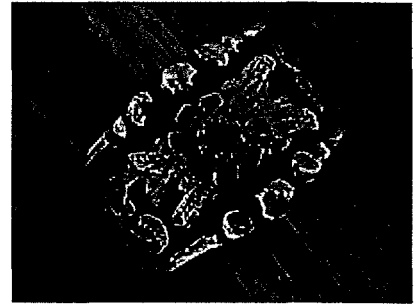
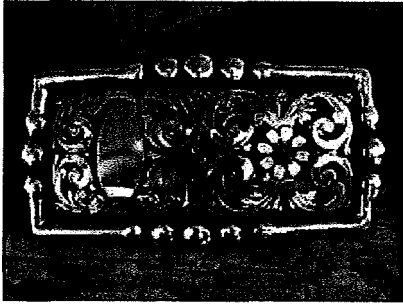
JACKSON WALKER L.L.P.

A handwritten signature in black ink, appearing to read 'Mark A. Tidwell', written over the printed name.

Mark A. Tidwell

MAT:rt  
Enclosures

## Examples of Bob Berg Jewelry





Mr. Hank Byars  
Western Sundries  
Page 4  
September 30, 2003

bcc: Bob Berg Jewelry  
Linda Cole, Esq. (Firm)

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September 30, 2003

**VIA CERTIFIED MAIL**  
**RRR #7160 3901 9848 1286 7376**

Mr. Hank Byars  
Western Sundries  
809 Josephine St.  
Yoakum, TX 77995

Re: Infringement of Bob Berg Intellectual Property

Dear Sir:

This firm represents Bob Berg Buckles ("**Berg**") in connection with copyright, trademark, unfair competition and certain other matters. Berg has been designing and selling originally designed western jewelry, including belt buckles and trophies, since the late 1970s. During that time, Berg has secured copyright protection for his jewelry designs, and the distinctive designs have become uniquely recognizable by the public as originating with Berg. Berg's jewelry is well known to the consuming public as characterized by heavy, raised, half-rounded edges on which are set one or more oversized, tapered beads; vine/leaf scrollwork, often layered or stacked to provide a 3-dimensional effect; and a black background setting-off and highlighting the scrollwork (the "**Berg Elements**"). Examples of Berg's jewelry incorporating the Berg Elements are attached.

Any jewelry pieces incorporating the Berg Elements that your company is making, selling and otherwise distributing are an infringement of Berg's copyrights and product configuration rights in violation of federal and state statutes and laws. In this regard, it has come to our attention that you are distributing infringing items at various rodeos and shows throughout the country, including the Houston Livestock Show and Rodeo. Therefore, we demand that you immediately cease and desist from all such infringing activity.

Berg's copyrights arise under 17 U.S.C. § 102(a) of the federal copyright statute and have been registered in accordance with 17 U.S.C. § 408. While Berg has secured a number of copyrights covering his jewelry designs over the years, U.S. Copyright Reg. No. VA-1-091-617, which issued on June 12, 2000, is his most comprehensive registration covering a wide array of Berg's jewelry. Any use, sale or other distribution of jewelry similar to Berg's jewelry is a violation of Berg's exclusive rights under 17 U.S.C. § 106 and § 113 which grant to Berg the right, among other things, to reproduce the copyrighted work, to distribute copies of the copyrighted work and to publicly display the copyrighted work. We would point out that under 17 U.S.C. § 501 of the federal copyright statute, "substantial similarity" between competing works, particularly where a competitor's work was copied, is an indication of copyright infringement.

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Page 2  
September 30, 2003

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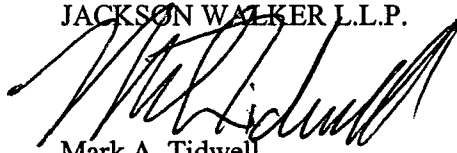
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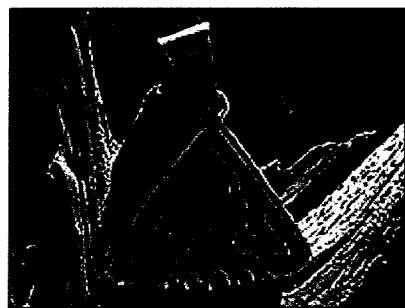
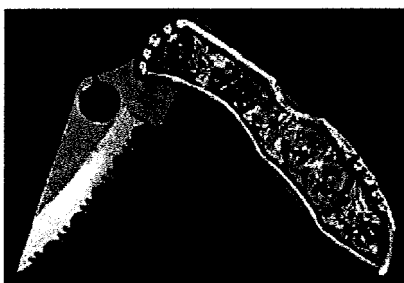
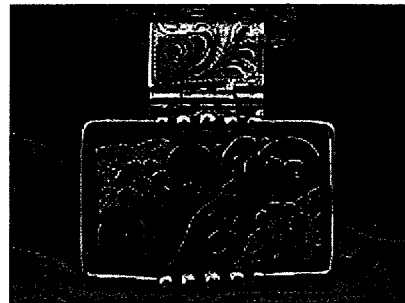
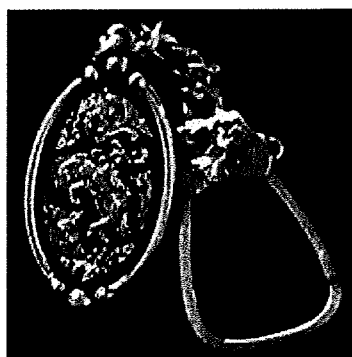
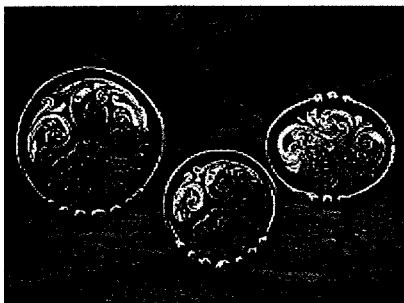
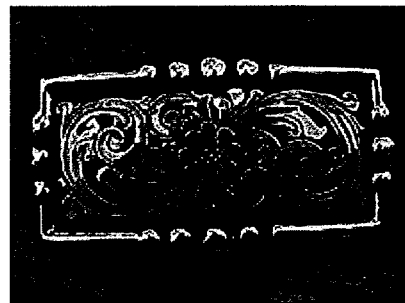
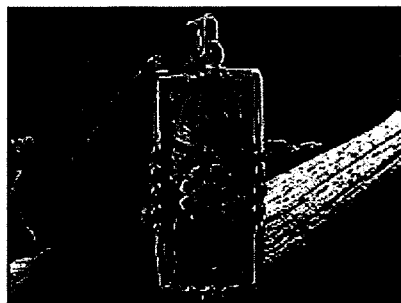
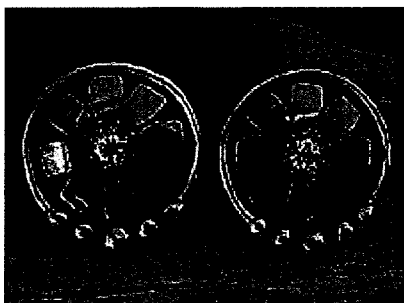
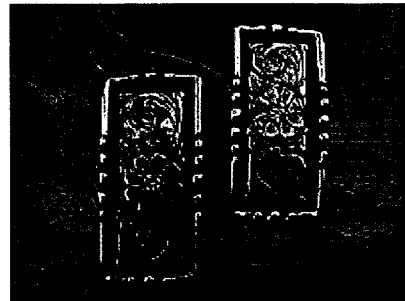
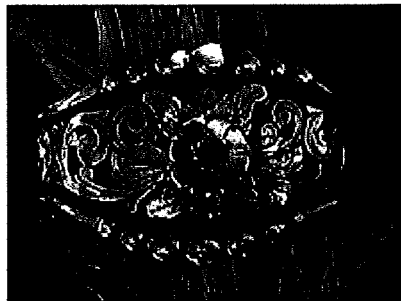
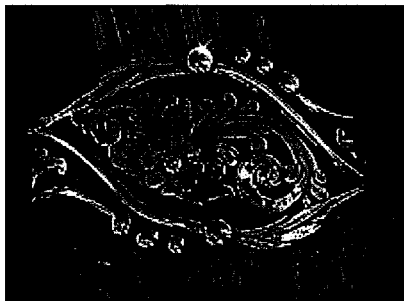
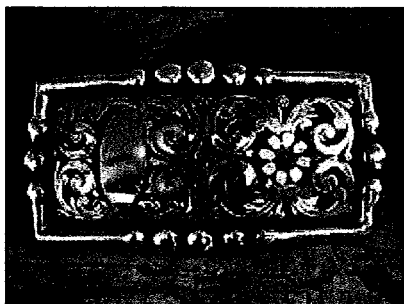
JACKSON WALKER L.L.P.

A handwritten signature in black ink, appearing to read 'Mark A. Tidwell', is written over the printed name and firm name.

Mark A. Tidwell

MAT:rt  
Enclosures

## Examples of Bob Berg Jewelry



Skyline Silversmith, Inc.

Page 4

September 30, 2003

bcc: Bob Berg Jewelry  
Linda Cole, Esq. (Firm)  
(w/enclosures)

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Mark A. Tidwell  
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mtidwell@jw.com

September 30, 2003

VIA FACSIMILE (916) 645-0605

CERTIFIED MAIL

RRR #7160 3901 9844 3624 8582

Skyline Silversmiths, Inc.  
P.O. Box 397  
Lincoln, CA 95648

Re: Infringement of Bob Berg Intellectual Property

Dear Sirs:

This firm represents Bob Berg Buckles ("**Berg**") in connection with copyright, trademark, unfair competition and certain other matters. Berg has been designing and selling originally designed western jewelry, including belt buckles and trophies, since the late 1970s. During that time, Berg has secured copyright protection for his jewelry designs, and the distinctive designs have become uniquely recognizable by the public as originating with Berg. Berg's jewelry is well known to the consuming public as characterized by heavy, raised, half-rounded edges on which are set one or more oversized, tapered beads; vine/leaf scrollwork, often layered or stacked to provide a 3-dimensional effect; and a black background setting-off and highlighting the scrollwork (the "**Berg Elements**"). Examples of Berg's jewelry incorporating the Berg Elements are attached.

Any jewelry pieces incorporating the Berg Elements that your company is making, selling and otherwise distributing are an infringement of Berg's copyrights and product configuration rights in violation of federal and state statutes and laws. In this regard, it has come to our attention that you are making, selling and distributing jewelry incorporating the Berg Elements, including belt buckles and bolo ties as shown on the attached Exhibit A. These items are all offered for sale on your web site at [www.skylinevaquero.com/SKYLINE/index.html](http://www.skylinevaquero.com/SKYLINE/index.html). Therefore, we demand that you immediately cease and desist from all such infringing activity.

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JACKSON WALKER L.L.P.

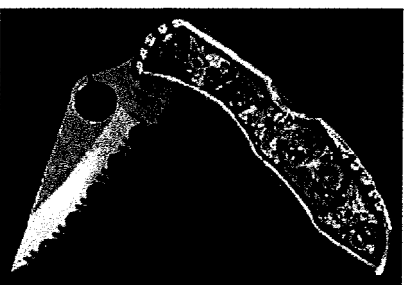
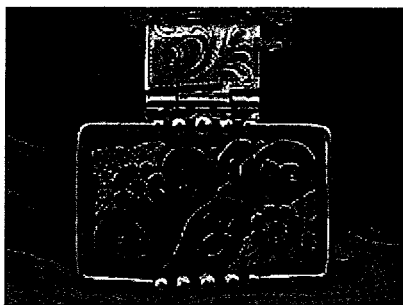
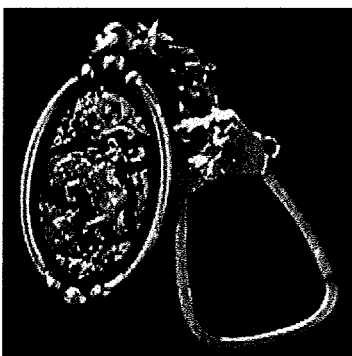
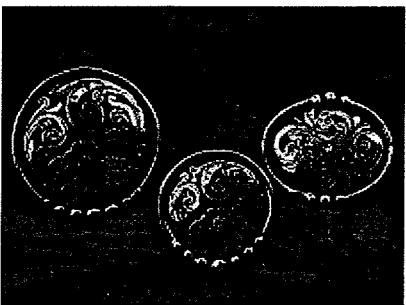
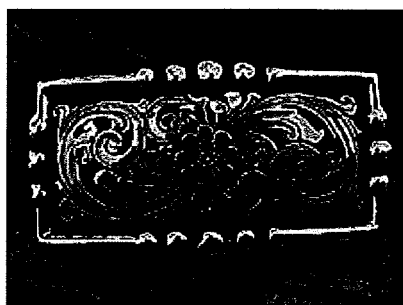
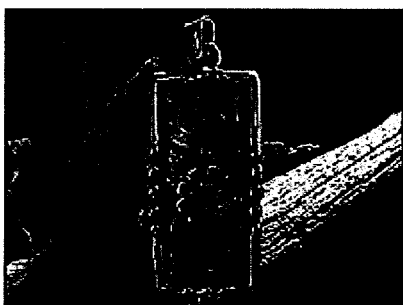
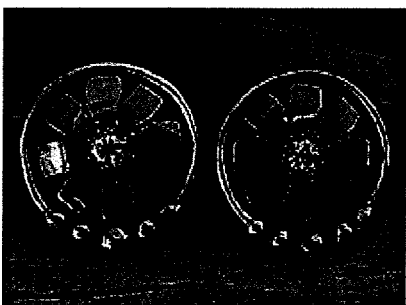
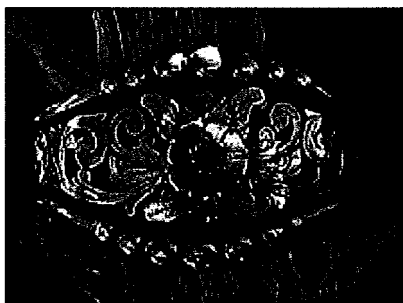
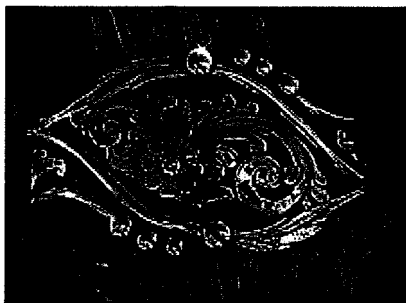
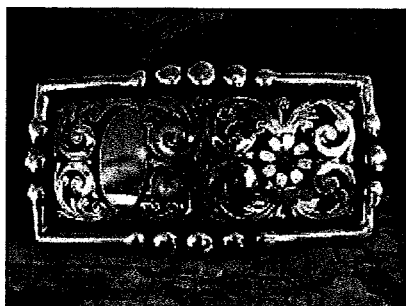
A handwritten signature in black ink, appearing to read 'Mark A. Tidwell', written over the printed name.

Mark A. Tidwell

MAT:rt  
Enclosures

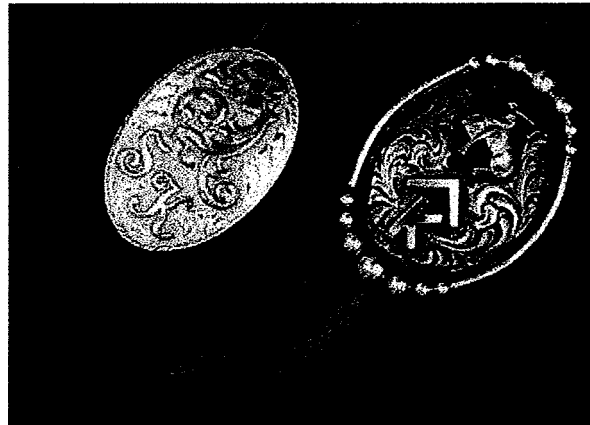
RB\_0564

## Examples of Bob Berg Jewelry

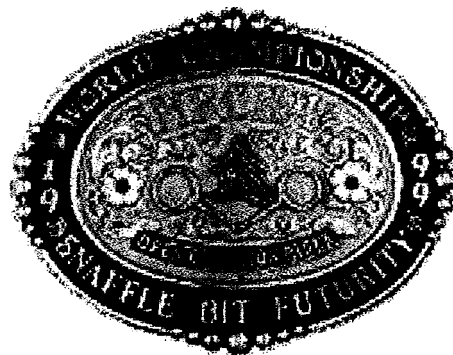


**Exhibit A**  
**Skyline Silversmiths, Inc.**  
**P.O. Box 397**  
**Lincoln, Ca. 95648**

**Bolo Ties**



**Belt Buckles**



Vaquero Trophy & Tack  
Page 4  
September 30, 2003

bcc: Bob Berg Jewelry  
Linda Cole, Esq. (Firm)  
(w/encl.)

ATTORNEYS & COUNSELORS  
1401 McKinney Street, Suite 1900  
Houston, Texas 77010  
(713) 752-4200 • fax (713) 752-4221  
www.jw.com



JACKSON WALKER L.L.P.

Mark A. Tidwell  
(713) 752-4578  
mtidwell@jw.com

September 30, 2003

VIA FACSIMILE NO.: 916-645-0605

**CERTIFIED MAIL****RRR # 7160 3901 9844 3624 8599**

Vaquero Trophy & Tack  
P.O. Box 598  
Lincoln, CA 95648

Re: Infringement of Bob Berg Intellectual Property

Dear Sirs:

This firm represents Bob Berg Buckles ("**Berg**") in connection with copyright, trademark, unfair competition and certain other matters. Berg has been designing and selling originally designed western jewelry, including belt buckles and trophies, since the late 1970s. During that time, Berg has secured copyright protection for his jewelry designs, and the distinctive designs have become uniquely recognizable by the public as originating with Berg. Berg's jewelry is well known to the consuming public as characterized by heavy, raised, half-rounded edges on which are set one or more oversized, tapered beads; vine/leaf scrollwork, often layered or stacked to provide a 3-dimensional effect; and a black background setting-off and highlighting the scrollwork (the "**Berg Elements**"). Examples of Berg's jewelry incorporating the Berg Elements are attached.

Any jewelry pieces incorporating the Berg Elements that your company is making, selling and otherwise distributing are an infringement of Berg's copyrights and product configuration rights in violation of federal and state statutes and laws. In this regard, it has come to our attention that you are making, selling and distributing jewelry incorporating the Berg Elements, including conchos, buckles, jewelry and knives as shown on the attached Exhibit A. These items are all offered for sale on your web site at [www.skylinevaquero.com/VAQUERO/vaquero.htm](http://www.skylinevaquero.com/VAQUERO/vaquero.htm). Therefore, we demand that you immediately cease and desist from all such infringing activity.

Berg's copyrights arise under 17 U.S.C. § 102(a) of the federal copyright statute and have been registered in accordance with 17 U.S.C. § 408. While Berg has secured a number of copyrights covering his jewelry designs over the years, U.S. Copyright Reg. No. VA-1-091-617, which issued on June 12, 2000, is his most comprehensive registration covering a wide array of Berg's jewelry. Any use, sale or other distribution of jewelry similar to Berg's jewelry is a violation of Berg's exclusive rights under 17 U.S.C. § 106 and § 113 which grant to Berg the right, among other things, to reproduce the copyrighted work, to distribute copies of the copyrighted work and to publicly display the copyrighted work. We would point out that under 17 U.S.C. § 501 of the federal copyright statute, "substantial similarity" between competing works, particularly where a competitor's work was copied, is an indication of copyright infringement.

Austin  
Dallas  
Fort Worth  
Houston  
Richardson  
San Angelo  
San Antonio

Vaquero Trophy &amp; Tack

Page 2

September 30, 2003

Remedies for copyright infringement can include temporary and permanent injunctions under 17 U.S.C. § 502, impounding and disposition of infringing articles under 17 U.S.C. § 503 and damages under 17 U.S.C. § 504. To be clear, damages may be assessed, at the election of the copyright holder, based on 1) the copyright owner's actual damages *plus* any additional profits of the infringer or 2) statutory damages of up to \$30,000 *per* infringing design. This amount of \$30,000 *per* infringing design inflates to \$150,000 per infringing design if such infringement is proven to be willful. Finally, the prevailing copyright holder in a copyright infringement action is entitled to receive reasonable attorney's fees incurred in enforcing said rights.

Likewise, your distribution and sale of jewelry having a confusingly similar design to Berg's jewelry is a clear violation of the federal Lanham Act, 15 U.S.C. §1125(a), for unfair competition, palming off and trademark infringement, as well as common law trademark infringement. Through longstanding use, the Berg Elements as they are incorporated into Berg's product designs have achieved widespread regional and national recognition as a product configuration designating high-quality jewelry. This recognition was achieved through extensive marketing and advertising efforts. The public recognition and goodwill embodied in the Berg Elements is threatened and eroded by your continued unauthorized use. Specifically, your use of a product design incorporating the Berg Elements, or any elements confusingly similar thereto, unfairly trades on my client's goodwill, and is likely to cause confusion, mistake or deception as to the source and quality of your products and authorization, license or sponsorship by Berg, all of which is in violation of Section 43(a) of the federal Lanham Act. Such usage also dilutes my client's mark in violation of 43(c) of the Lanham Act. 15 U.S.C. § 1125. In this regard, Berg is very willing to enforce its rights in the Berg Elements via local Federal District Court and Texas State Court.

Under these various causes of action, Berg will strictly enforce its rights relating to its copyrights, product configuration rights and trademark rights. Although Berg respects the rights of others to fairly compete in the marketplace, any practice of preying on the confusion of customers through the use of Berg Elements in product designs will not be tolerated. Berg regards any further or additional use of the Berg Elements, or any device similar thereto, in your jewelry as "intentional" acts for which treble damages and attorney's fees will be claimed under the Lanham Act if this matter goes to court. Likewise, under separate causes of action, Berg will seek equitable and monetary damages from any party who produces jewelry substantially similar to Berg's copyright protected jewelry designs.

Therefore, we must insist that you immediately cease and desist from all use of the Berg Elements, or anything confusingly similar thereto, in your jewelry designs. If these steps are not taken on a prompt and voluntary basis, we will advise Berg to seek immediate injunctive relief, damages and/or other appropriate remedies.

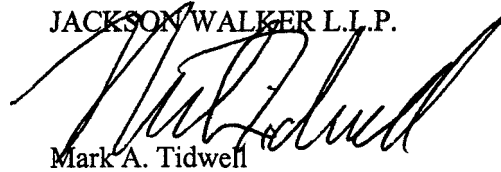
In view of the importance of this matter to our client, please respond by **October 10, 2003**, advising of your intention to comply with the above demands and adequate means for providing proof of destruction of all infringing goods and materials. We also require a complete accounting of all infringing goods sold and payment of damages for such sales. If you comply with these demands, we will consider this matter closed.

Vaquero Trophy & Tack  
Page 3  
September 30, 2003

This letter is written without prejudice to our client's rights and remedies, all of which are expressly reserved.

Very truly yours,

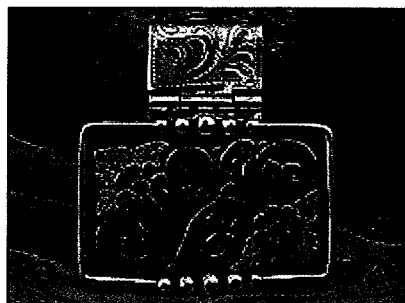
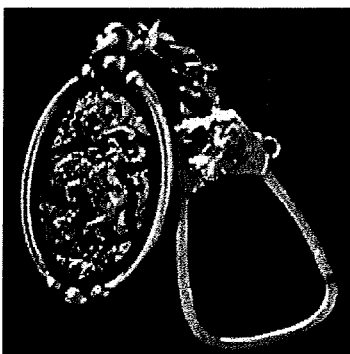
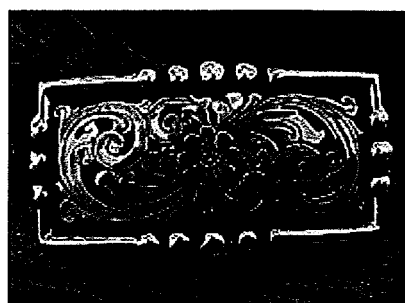
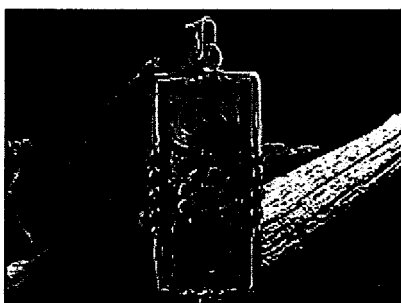
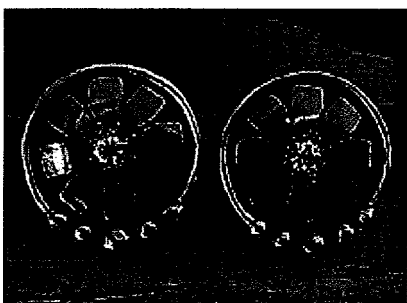
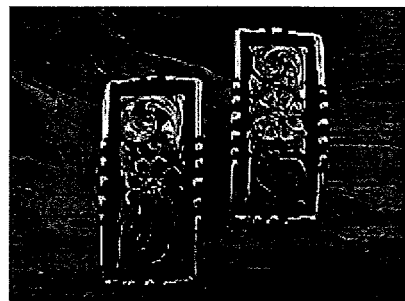
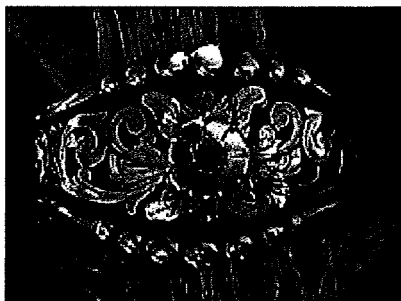
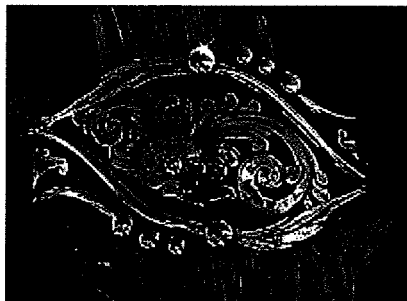
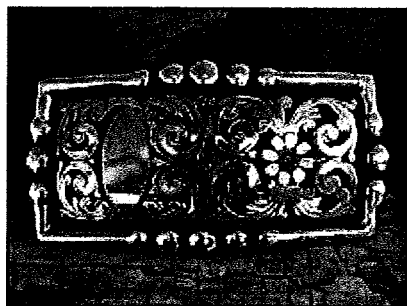
JACKSON WALKER L.L.P.

A handwritten signature in black ink, appearing to read "Mark A. Tidwell", is written over the printed name.

Mark A. Tidwell

MAT:rt  
Enclosures

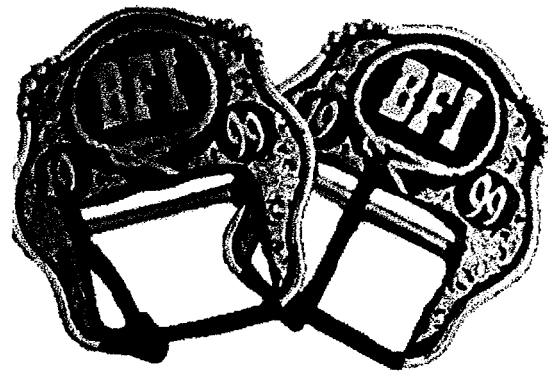
## Examples of Bob Berg Jewelry

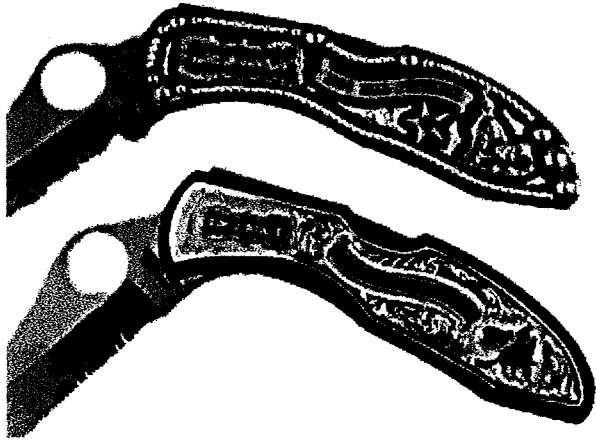




## Exhibit A

Vaquero Trophy & Tack  
P.O. Box 598  
Lincoln, Ca. 95648





Double J. Saddlery

Page 4

September 30, 2003

bcc: Bob Berg Jewelry  
Linda Cole, Esq. (Firm)  
(w/copies)

ATTORNEYS & COUNSELORS  
1401 McKinney Street, Suite 1900  
Houston, Texas 77010  
(713) 752-4200 • fax (713) 752-4221  
www.jw.com



JACKSON WALKER L.L.P.

Mark A. Tidwell  
(713) 752-4578  
mtidwell@jw.com

September 30, 2003

**VIA FACSIMILE (361) 293-6365**

**CERTIFIED MAIL**

**RRR #7160 3901 9844 3624 8612**

Double J Saddlery  
1114 W. Gonzales  
Yoakum, TX 77995

Re: Infringement of Bob Berg Intellectual Property

Dear Sirs:

This firm represents Bob Berg Buckles ("**Berg**") in connection with copyright, trademark, unfair competition and certain other matters. Berg has been designing and selling originally designed western jewelry, including belt buckles and trophies, since the late 1970s. During that time, Berg has secured copyright protection for his jewelry designs, and the distinctive designs have become uniquely recognizable by the public as originating with Berg. Berg's jewelry is well known to the consuming public as characterized by heavy, raised, half-rounded edges on which are set one or more oversized, tapered beads; vine/leaf scrollwork, often layered or stacked to provide a 3-dimensional effect; and a black background setting-off and highlighting the scrollwork (the "**Berg Elements**"). Examples of Berg's jewelry incorporating the Berg Elements are attached.

Any jewelry pieces incorporating the Berg Elements that your company is making, selling and otherwise distributing are an infringement of Berg's copyrights and product configuration rights in violation of federal and state statutes and laws. In this regard, it has come to our attention that you are making, selling and distributing jewelry incorporating the Berg Elements, including conchos, belt buckles and spur straps as shown on the attached Exhibit A. These items are all offered for sale on your web site at [www.doublejsaddlery.com](http://www.doublejsaddlery.com). In addition, it has come to our attention that you are distributing infringing items at various rodeos and shows throughout the country, including the Houston Livestock Show and Rodeo. Therefore, we demand that you immediately cease and desist from all such infringing activity.

Berg's copyrights arise under 17 U.S.C. § 102(a) of the federal copyright statute and have been registered in accordance with 17 U.S.C. § 408. While Berg has secured a number of copyrights covering his jewelry designs over the years, U.S. Copyright Reg. No. VA-1-091-617, which issued on June 12, 2000, is his most comprehensive registration covering a wide array of Berg's jewelry. Any use, sale or other distribution of jewelry similar to Berg's jewelry is a violation of Berg's exclusive rights under 17 U.S.C. § 106 and § 113 which grant to Berg the right, among other things, to reproduce the copyrighted work, to distribute copies of the copyrighted work and to publicly

Austin  
Dallas  
Fort Worth  
Houston  
Richardson  
San Angelo  
San Antonio

Double J. Saddlery  
Page 2  
September 30, 2003

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Remedies for copyright infringement can include temporary and permanent injunctions under 17 U.S.C. § 502, impounding and disposition of infringing articles under 17 U.S.C. § 503 and damages under 17 U.S.C. § 504. To be clear, damages may be assessed, at the election of the copyright holder, based on 1) the copyright owner’s actual damages *plus* any additional profits of the infringer or 2) statutory damages of up to \$30,000 *per* infringing design. This amount of \$30,000 *per* infringing design inflates to \$150,000 per infringing design if such infringement is proven to be willful. Finally, the prevailing copyright holder in a copyright infringement action is entitled to receive reasonable attorney’s fees incurred in enforcing said rights.

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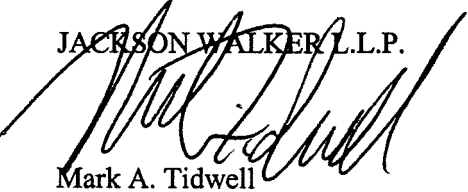
Double J. Saddlery  
Page 3  
September 30, 2003

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This letter is written without prejudice to our client's rights and remedies, all of which are expressly reserved.

Very truly yours,

JACKSON WALKER L.L.P.



Mark A. Tidwell

MAT:rt  
Enclosures

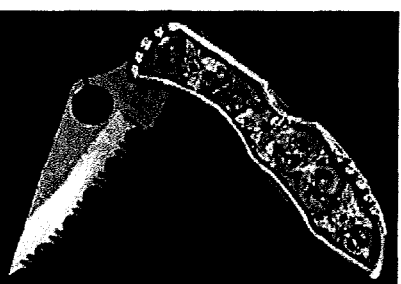
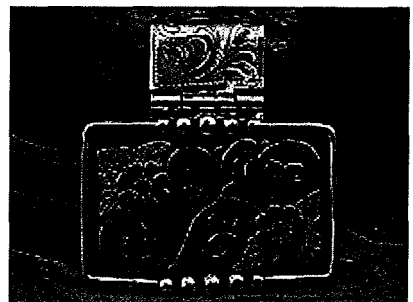
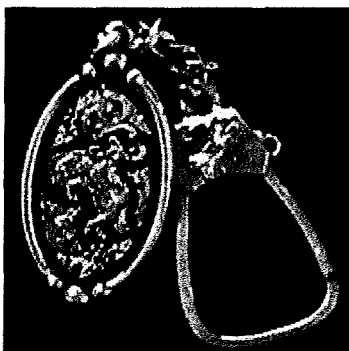
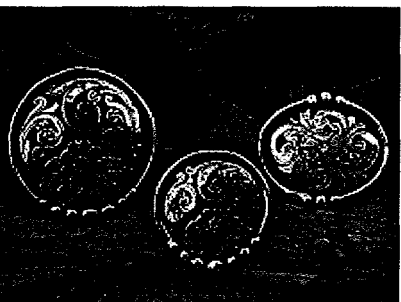
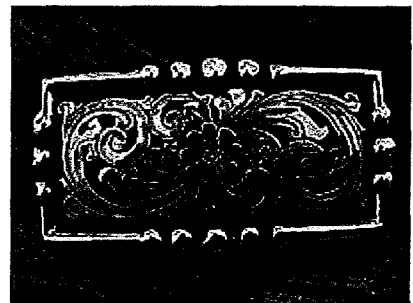
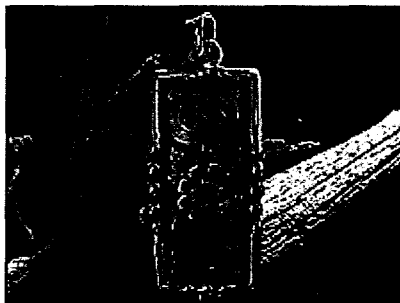
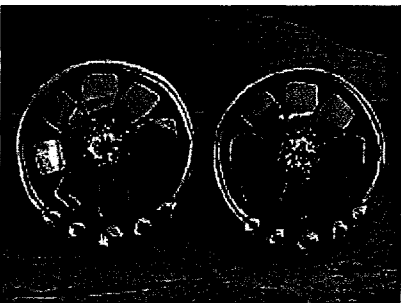
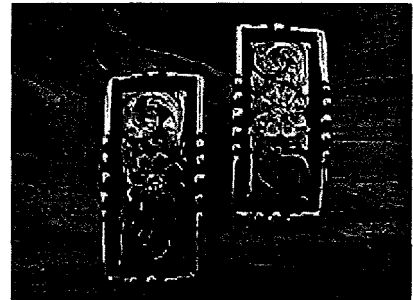
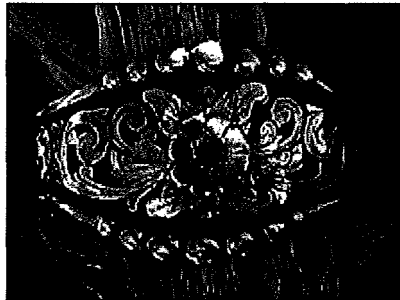
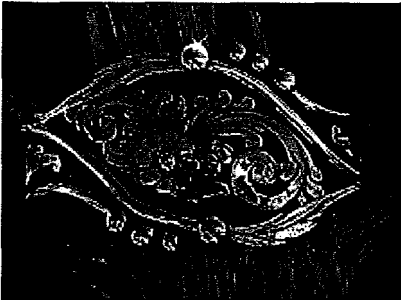
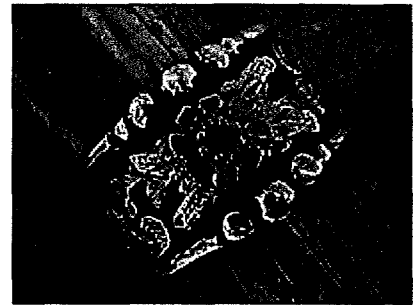
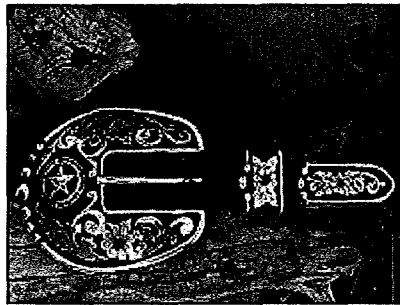
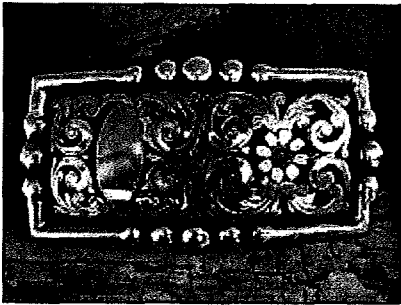
Double J. Saddlery

Page 4

September 30, 2003

bcc: Bob Berg Jewelry  
Linda Cole, Esq. (Firm)  
(w/copies)

## Examples of Bob Berg Jewelry





**Exhibit A**

# Conchos

1-800-669-2535



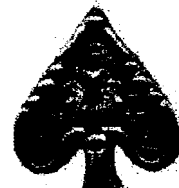
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1" C236 20.00



1" C237 20.00



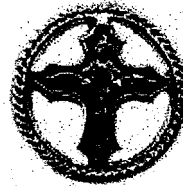
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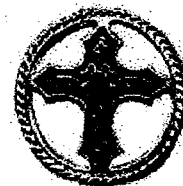
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1 1/2" C264 25.00



1" C261 20.00  
1 1/2" C262 25.00



1" C274 20.00



1" C243 20.00



1" C239 20.00  
1 1/4" C240 25.00  
1 1/2" C241 30.00



1" x 2" C242 30.00



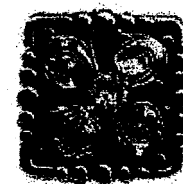
1" C285 15.00



1" C280 15.00  
1 1/4" C281 20.00  
1 1/2" C282 25.00



1" x 2" C283 25.00



1" C284 15.00



1" C275 15.00  
1 1/4" C276 20.00



1" x 2" C278 25.00



1" C279 15.00

## Belts/Buckles

**The Cinco Collection**



907-0-X	275.00
n/a buckle 907-0	200.00
923-0-X	195.00
n/a buckle 923-0	125.00
904-1	325.00
n/a buckle 904-1	250.00
996-1	325.00
n/a buckle 996-1	250.00

- Silver plated on edge heavy edge
- Copper plated on edge
- Gold plated overlay
- Black plated background
- Reversible on ends & bar



• Ladies 3/4" Buckle Set 75.00

## Cinco Spur Strap



# BOB BERG BUCKLES

- DISTINCT
- INNOVATIVE
- EXCEPTIONAL


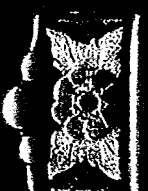


**BOB BERG BUCKLES**  
P.O. BOX 817  
CLEBURNE, TX 76033-0817  
(817) 774-0459 \* 774-0460  
Fax (817) 774-0461

RB\_0593




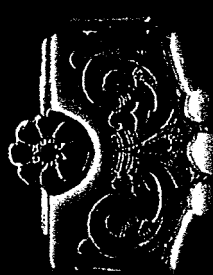
3/4 INCH



2510  
\$445.00




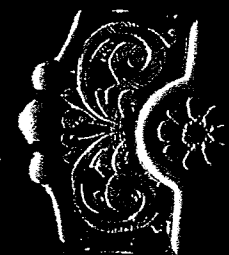
1 INCH



2511  
\$655.00



1 INCH



2512  
\$685.00



**RINGS****7000 SERIES****Sterling base w/gold  
fill overlay scrolls****Sterling base w/  
solid gold scrolls****White Gold w/  
solid gold scrolls****Straight  
Band****7001  
\$149.00****7002  
\$395.00****7003  
\$695.00****Large Tapered  
Band****7004  
\$199.00****7005  
\$395.00****7006  
\$695.00****Small Tapered  
Band****7007  
\$175.00****7008  
\$375.00****7009  
\$675.00****Large Stone  
Specify Setting****7010  
\$350.00****7011  
\$650.00****7012  
\$895.00****Men's square  
Stone****7013  
\$395.00****N/A****N/A**

Sterling base w/gold  
fill overlay scrolls

Sterling base w/  
solid gold scrolls

White Gold w/  
solid gold scrolls

Large Tapered/  
Large Center Stone



7014  
\$349.00

7015  
\$525.00

7016  
\$695.00

Large Tapered/  
Large Center Stone



7014  
\$349.00

7015  
\$525.00

7016  
\$695.00

Large Tapered/  
Large Center Stone

Small Side Stones



7017  
\$395.00

7018  
\$595.00

7019  
\$795.00

Large Tapered/  
Large Center Stone

Small Side Stones



7017  
\$395.00

7018  
\$595.00

7019  
\$795.00

Large Tapered/  
Small Center Stone

Small Side Stones



7020  
\$249.00

7021  
\$375.00

7022  
\$495.00

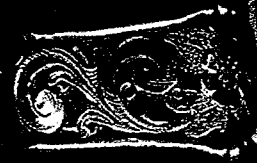
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7024  
\$499.00

7025  
\$649.00

## WATCH BANDS

7500 SERIES

7505  
\$97.507501  
\$295.007502  
\$295.007503  
\$295.007504  
\$365.00

RB\_0597

## KNIVES

## 5500 SERIES



5501  
\$299.00



5501  
\$299.00



5502  
\$389.00



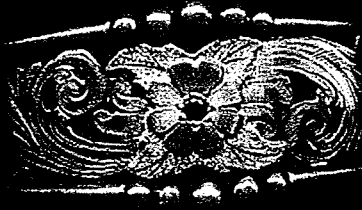
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W/3 FLOWERS  
GOLD CLIP

5505-A  
\$425.00

PLAIN  
CLIP

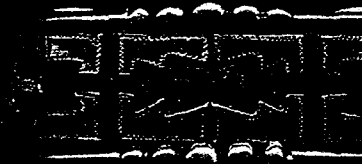




2020  
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2021  
\$325.00

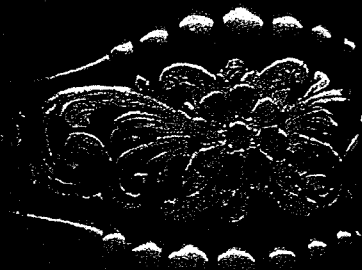


2022  
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2023  
\$345.00

2023-N  
\$320.00



2024  
\$345.00

# CONCHOS

# 4000 SERIES



4001  
\$69.00  
4001-P  
\$35.00



4002  
\$69.00



4003  
\$69.00



4004  
\$45.00



4005  
\$125.00



4006  
\$189.00



4007  
\$139.00

4007-N  
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4008-P  
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4009  
\$139.00



4010  
\$169.00



4011  
\$149.00



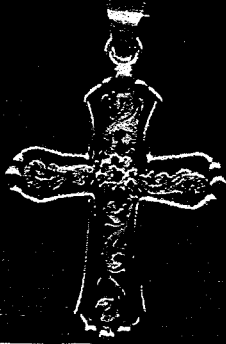
4012  
\$135.00



4013  
\$69.00

**PENDANTS**

**6500 SERIES**



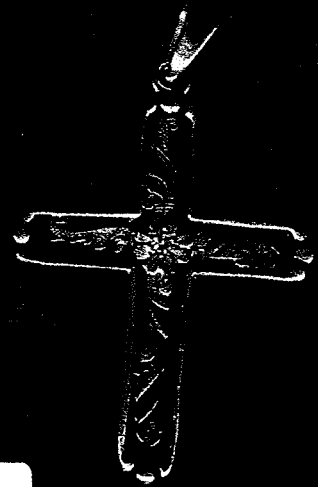
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**6502**  
**\$245.00**



**6503**  
**\$99.00**



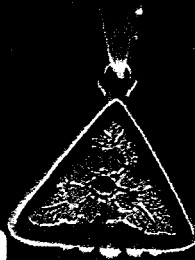
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**6505**  
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**6506**  
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**6507**  
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**6508**  
**\$95.00**



**6509**  
**\$139.00**



**6510**  
**\$45.00**



**6511**  
**\$119.00**



**6512**  
**\$245.00**



**6513**  
**\$295.00**





## CERTIFICATE OF REGISTRATION

FORM VA

For a Work of the Visual Arts  
UNITED STATES COPYRIGHT OFFICE

OFFICIAL SEAL

This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Marybeth Peters*  
REGISTER OF COPYRIGHTS

United States of America

VA 1-091-617



W400010916174

EFFECTIVE DATE OF REGISTRATION

JUN 12 2000

Month Day Year

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

TITLE OF THIS WORK ▼

NATURE OF THIS WORK ▼ See instructions

1 Bob Berg JewelryJewelry Design

PREVIOUS OR ALTERNATIVE TITLES ▼

Bob Berg Buckles

PUBLICATION AS A CONTRIBUTION If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work ▼

If published in a periodical or serial give: Volume ▼

Number ▼

Issue Date ▼

On Pages ▼

2 a NAME OF AUTHOR ▼

Robert Peter Berg

DATES OF BIRTH AND DEATH

Year Born ▼

Year Died ▼

1952

Was this contribution to the work a "work made for hire"?

☐ Yes☐ No

AUTHOR'S NATIONALITY OR DOMICILE

Name of Country

OR

Citizen of ▼

Domiciled in ▼

AustraliaTexas, USA

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☐ NoPseudonymous? ☐ Yes ☐ No

If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Check appropriate box(es). See instructions

☐ 3-Dimensional sculpture☐ Map☐ Technical drawing☐ 2-Dimensional artwork☐ Photograph☐ Text☐ Reproduction of work of art☒ Jewelry design☐ Architectural work☐ Design on sheetlike material

b NAME OF AUTHOR ▼

DATES OF BIRTH AND DEATH

Year Born ▼

Year Died ▼

Was this contribution to the work a "work made for hire"?

☐ Yes☐ No

AUTHOR'S NATIONALITY OR DOMICILE

Name of Country

OR

Citizen of ▼

Domiciled in ▼

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☐ NoPseudonymous? ☐ Yes ☐ No

If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Check appropriate box(es). See instructions

☐ 3-Dimensional sculpture☐ Map☐ Technical drawing☐ 2-Dimensional artwork☐ Photograph☐ Text☐ Reproduction of work of art☐ Jewelry design☐ Architectural work☐ Design on sheetlike material

3 a YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED

2000

This information must be given in all cases.

b DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK

Complete this information ONLY if this work has been published

Month ▼

January

Day ▼

31

Year ▼

2000

Nation

4 COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼

Robert Peter Berg  
P.O. Box 817  
Chesapeake, TX 76033

APPLICATION RECEIVED

MAY 07 2001

JUL 19 2001

ONE DEPOSIT RECEIVED

JUN 12 2000

TWO DEPOSITS RECEIVED

FUNDS RECEIVED

MORE ON BACK ►

• Complete all applicable spaces (numbers 1-9) on the reverse side of this page  
• See detailed instructions  
• Sign the form at line 8

DO NOT WRITE HERE

Page 1 of 2 pages

RB\_0622



EXAMINED BY

FORM VA

CHECKED BY

☒ CORRESPONDENCE  
YesFOR  
COPYRIGHT  
OFFICE  
USE  
ONLY

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

☐ Yes ☒ No If your answer is "Yes," why is another registration being sought? (Check appropriate box.) ▼a. ☐ This is the first published edition of a work previously registered in unpublished form.b. ☒ This is the first application submitted by this author as copyright claimant.c. ☐ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give: Previous Registration Number ▼

Year of Registration ▼

DERIVATIVE WORK OR COMPILATION Complete both space 6a and 6b for a derivative work; complete only 6b for a compilation.

a. Preexisting Material Identify any preexisting work or works that this work is based on or incorporates. ▼

Some items previously published

a  
See instructions  
before completing  
this space

b. Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed. ▼

Some new jewelry designs

b

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.

Name ▼

Account Number ▼

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/ZIP ▼

Robert Berg  
P.O. Box 817

Cleburne, TX 76033

a

b

Area code and daytime telephone number ▶ 817-774-0459

Fax number ▶ 817-774-0461

CERTIFICATION I, the undersigned, hereby certify that I am the

check only one ▶

☒ author☐ other copyright claimant☐ owner of exclusive right(s)☐ authorized agent of

Name of author or other copyright claimant, or owner of exclusive right(s) A

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Typed or printed name and date ▼ If this application gives a date of publication in space 3, do not sign and submit it before that date.

Robert Berg

Handwritten signature (X) ▼

Date ▶ 5-1-2001

Mail  
certificate  
to:Certificate  
will be  
mailed in  
window  
envelope

Name ▼

Number/Street/Apt ▼

City/State/Zip ▼

Robert Peter Berg

P.O. Box 817

Cleburne, TX 76033

## YOU MUST

- Complete all necessary spaces
- Sign your application in space 8

SEND ALL 3 ELEMENTS  
IN THE SAME PACKAGE:

1. Application form
2. Nonrefundable \$20 filing fee in check or money order payable to Register of Copyrights
3. Deposit material

## MAIL TO

Register of Copyrights, Library of Congress  
101 Independence Ave., S.E.  
Washington, D.C. 20559-6000

17 U.S.C. § 506(e): Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.

April 1997-300,000

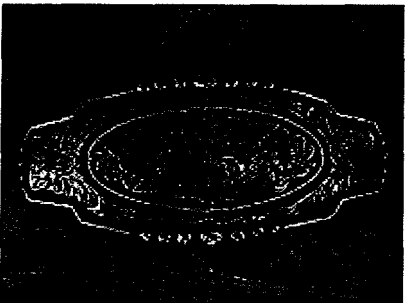
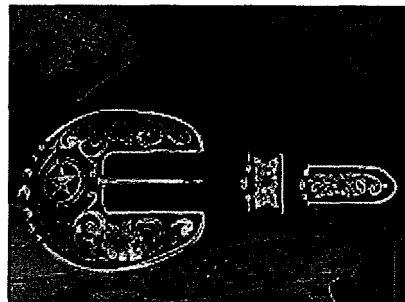
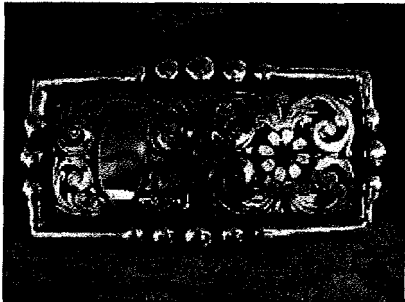
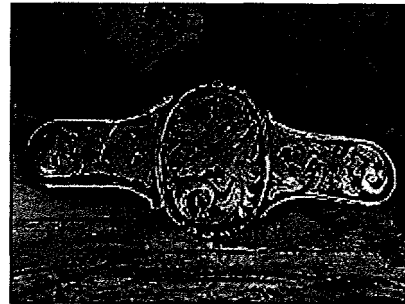
PRINTED ON RECYCLED PAPER

U.S. GOVERNMENT PRINTING OFFICE: 1997-417-750/40 336

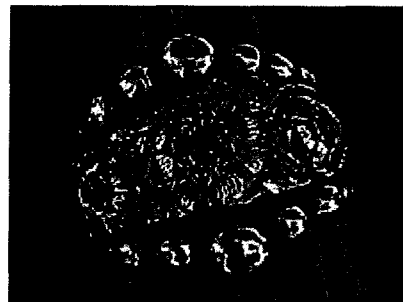
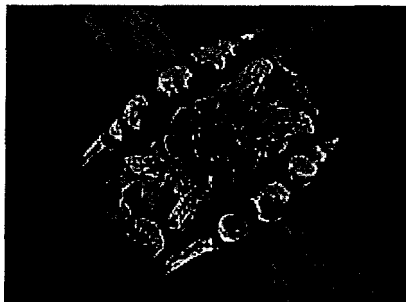
RB\_0623

**Examples of Bob Berg Jewelry Protected by Copyright Reg. No. VA-1-091-617**

**Buckles**



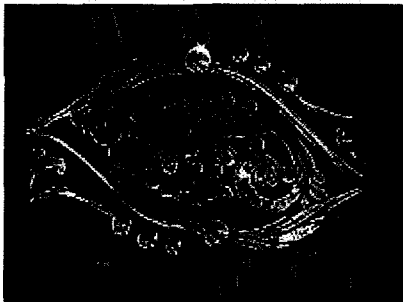
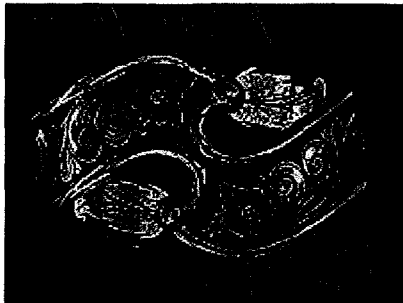
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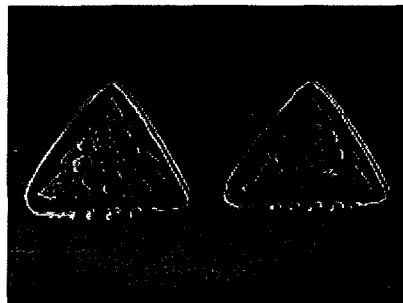
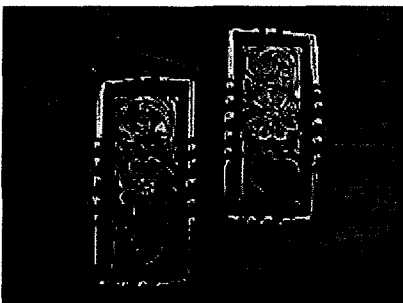


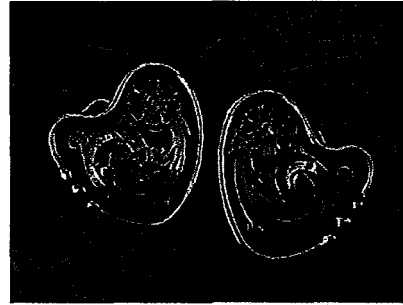
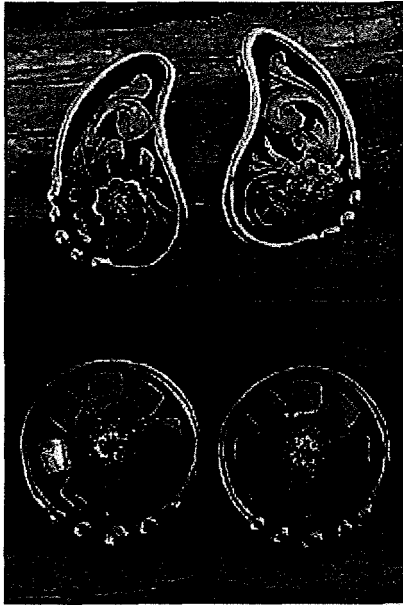


### Bracelets

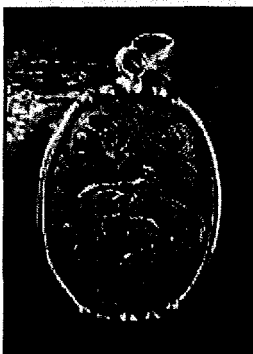
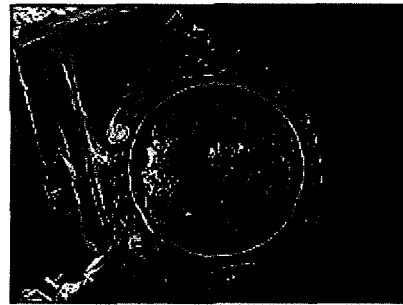
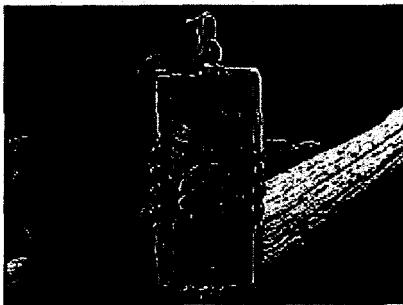


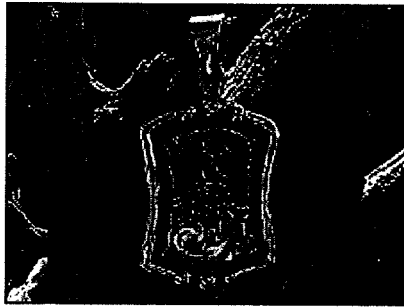
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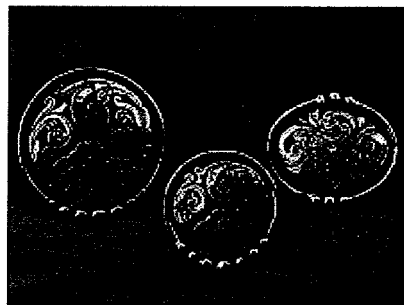


### Pendants

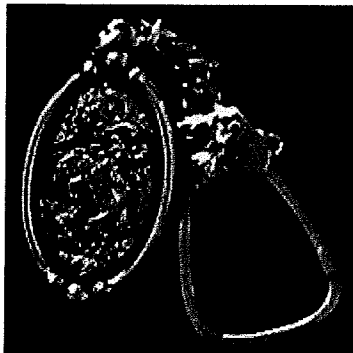




### Conchos



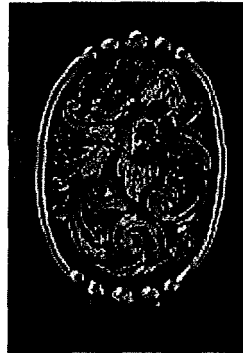
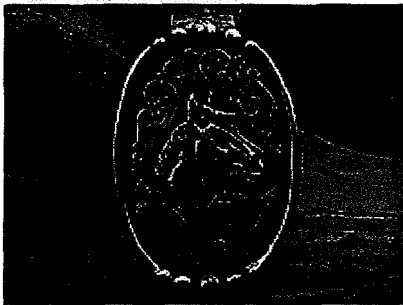
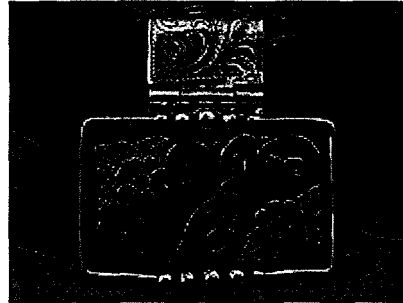
### Key Ring



### Knives



**Money Clip**



**Watch Band**



ATTORNEYS & COUNSELORS  
1401 McKinney Street, Suite 1900  
Houston, Texas 77010  
(713) 752-4200 • fax (713) 752-4221  
www.jw.com



JACKSON WALKER L.L.P.

Mark A. Tidwell  
(713) 752-4578  
mtidwell@jw.com

September 30, 2003

VIA CERTIFIED MAIL

RRR #7160 3901 9848 1286 7376

Certified Article Number

7160 3901 9848 1286 7376

SENDERS RECORD

Mr. Hank Byars  
Western Sundries  
809 Josephine St.  
Yoakum, TX 77995

Re: Infringement of Bob Berg Intellectual Property

Dear Sir:

This firm represents Bob Berg Buckles ("*Berg*") in connection with copyright, trademark, unfair competition and certain other matters. Berg has been designing and selling originally designed western jewelry, including belt buckles and trophies, since the late 1970s. During that time, Berg has secured copyright protection for his jewelry designs, and the distinctive designs have become uniquely recognizable by the public as originating with Berg. Berg's jewelry is well known to the consuming public as characterized by heavy, raised, half-rounded edges on which are set one or more oversized, tapered beads; vine/leaf scrollwork, often layered or stacked to provide a 3-dimensional effect; and a black background setting-off and highlighting the scrollwork (the "*Berg Elements*"). Examples of Berg's jewelry incorporating the Berg Elements are attached.

Any jewelry pieces incorporating the Berg Elements that your company is making, selling and otherwise distributing are an infringement of Berg's copyrights and product configuration rights in violation of federal and state statutes and laws. In this regard, it has come to our attention that you are distributing infringing items at various rodeos and shows throughout the country, including the Houston Livestock Show and Rodeo. Therefore, we demand that you immediately cease and desist from all such infringing activity.

Berg's copyrights arise under 17 U.S.C. § 102(a) of the federal copyright statute and have been registered in accordance with 17 U.S.C. § 408. While Berg has secured a number of copyrights covering his jewelry designs over the years, U.S. Copyright Reg. No. VA-1-091-617, which issued on June 12, 2000, is his most comprehensive registration covering a wide array of Berg's jewelry. Any use, sale or other distribution of jewelry similar to Berg's jewelry is a violation of Berg's exclusive rights under 17 U.S.C. § 106 and § 113 which grant to Berg the right, among other things, to reproduce the copyrighted work, to distribute copies of the copyrighted work and to publicly display the copyrighted work. We would point out that under 17 U.S.C. § 501 of the federal copyright statute, "substantial similarity" between competing works, particularly where a competitor's work was copied, is an indication of copyright infringement.

Remedies for copyright infringement can include temporary and permanent injunctions under 17 U.S.C. § 502, impounding and disposition of infringing articles under 17 U.S.C. § 503 and damages under 17 U.S.C. § 504. To be clear, damages may be assessed, at the election of the copyright holder, based on 1) the

Austin  
Dallas  
Fort Worth  
Houston  
Richardson  
San Angelo  
San Antonio

Member of GLOBALAW™

RB\_0647

Mr. Hank Byars  
Western Sundries  
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September 30, 2003

copyright owner's actual damages *plus* any additional profits of the infringer or 2) statutory damages of up to \$30,000 *per* infringing design. This amount of \$30,000 *per* infringing design inflates to \$150,000 per infringing design if such infringement is proven to be willful. Finally, the prevailing copyright holder in a copyright infringement action is entitled to receive reasonable attorney's fees incurred in enforcing said rights.

Likewise, your distribution and sale of jewelry having a confusingly similar design to Berg's jewelry is a clear violation of the federal Lanham Act, 15 U.S.C. § 1125(a), for unfair competition, palming off and trademark infringement, as well as common law trademark infringement. Through longstanding use, the Berg Elements as they are incorporated into Berg's product designs have achieved widespread regional and national recognition as a product configuration designating high-quality jewelry. This recognition was achieved through extensive marketing and advertising efforts. The public recognition and goodwill embodied in the Berg Elements is threatened and eroded by your continued unauthorized use. Specifically, your use of a product design incorporating the Berg Elements, or any elements confusingly similar thereto, unfairly trades on my client's goodwill, and is likely to cause confusion, mistake or deception as to the source and quality of your products and authorization, license or sponsorship by Berg, all of which is in violation of Section 43(a) of the federal Lanham Act. Such usage also dilutes my client's mark in violation of 43(c) of the Lanham Act. 15 U.S.C. § 1125. In this regard, Berg is very willing to enforce its rights in the Berg Elements via local Federal District Court and Texas State Court.

Under these various causes of action, Berg will strictly enforce its rights relating to its copyrights, product configuration rights and trademark rights. Although Berg respects the rights of others to fairly compete in the marketplace, any practice of preying on the confusion of customers through the use of Berg Elements in product designs will not be tolerated. Berg regards any further or additional use of the Berg Elements, or any device similar thereto, in your jewelry as "intentional" acts for which treble damages and attorney's fees will be claimed under the Lanham Act if this matter goes to court. Likewise, under separate causes of action, Berg will seek equitable and monetary damages from any party who produces jewelry substantially similar to Berg's copyright protected jewelry designs.

Therefore, we must insist that you immediately cease and desist from all use of the Berg Elements, or anything confusingly similar thereto, in your jewelry designs. If these steps are not taken on a prompt and voluntary basis, we will advise Berg to seek immediate injunctive relief, damages and/or other appropriate remedies.

In view of the importance of this matter to our client, please respond by **October 10, 2003**, advising of your intention to comply with the above demands and adequate means for providing proof of destruction of all infringing goods and materials. We also require a complete accounting of all infringing goods sold and payment of damages for such sales. If you comply with these demands, we will consider this matter closed.

Mr. Hank Byars  
Western Sundries  
Page 3  
September 30, 2003

This letter is written without prejudice to our client's rights and remedies, all of which are expressly reserved.

Very truly yours,

JACKSON WALKER L.L.P.

*Mark A. Tidwell*  
Mark A. Tidwell

MAT:rt  
Enclosures

2. Article Number	
 7160 3901 9848 1286 7376	
3. Service Type <b>CERTIFIED MAIL</b>	
4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
1. Article Addressed to:	
Mr Hank Byars Western Sundries 809 Josephine St Yoakum TX 77995	
Reference: 123428.00001 Charge To: 123428.00001 Sender: Jackson Walker	

COMPLETE THIS SECTION ON DELIVERY	
A. Received by (Please Print Clearly)	B. Date
<i>Phona Byars</i>	
C. Signature	
X <i>Phona Byars</i>	
D. Is delivery address different from item 1? If YES, enter delivery address below:	

7160 3901 9848 1286 7376

TO: Mr Hank Byars  
Western Sundries  
809 Josephine St  
Yoakum TX 77995

SENDER: Jackson Walker LLP (MAT2)

REFERENCE: 123428.00001

PS Form 3800, June 2000

RETURN RECEIPT SERVICE	Postage	
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	Return Receipt Fee	
	Restricted Delivery	
	Total Postage & Fees	

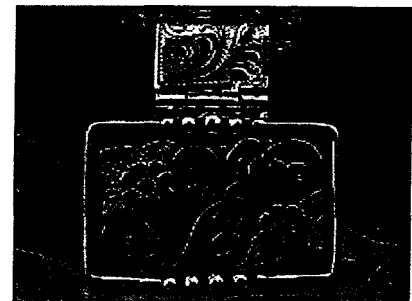
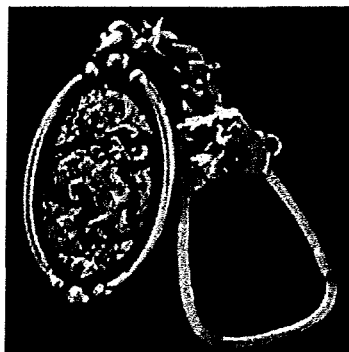
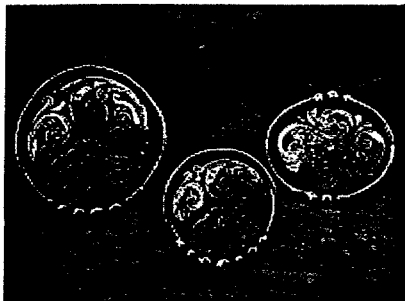
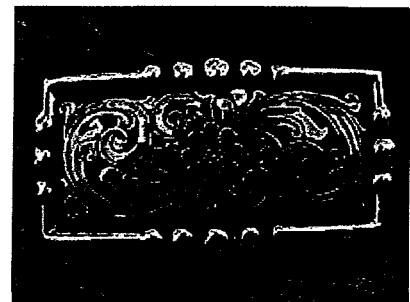
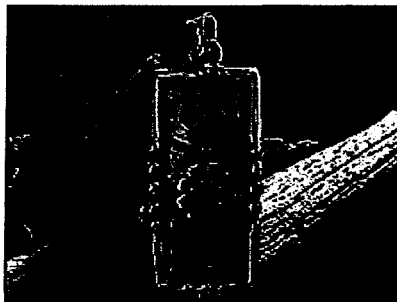
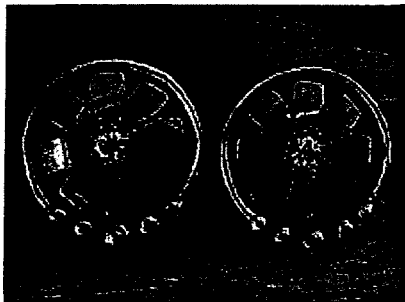
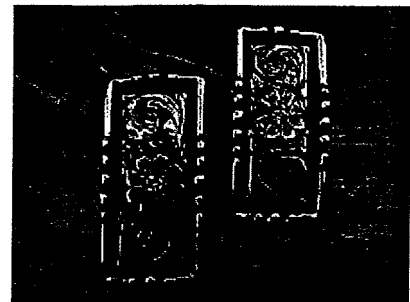
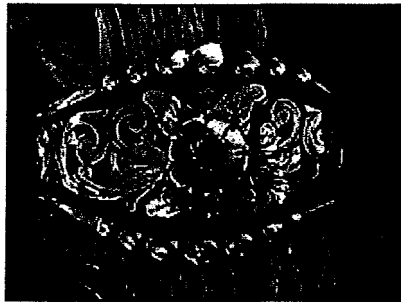
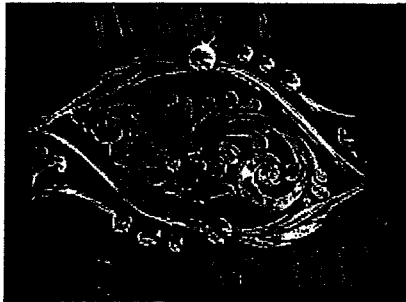
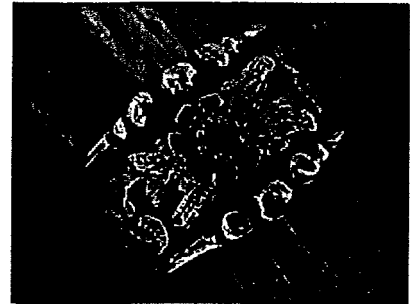
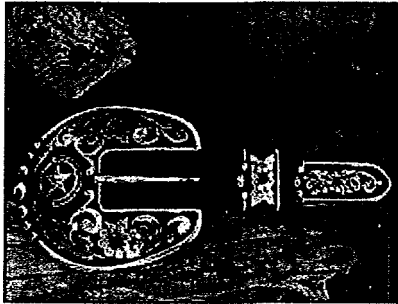
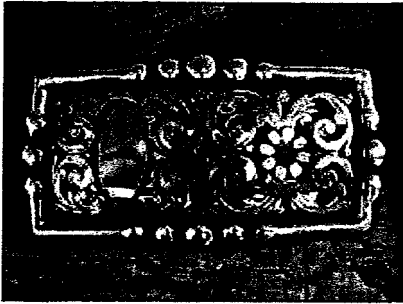
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RB\_0649

Mr. Hank Byars  
Western Sundries  
Page 4  
September 30, 2003

bcc: Bob Berg Jewelry  
Linda Cole, Esq. (Firm)



**Examples of Bob Berg Jewelry**

ATTORNEYS & COUNSELORS  
1401 McKinney Street, Suite 1900  
Houston, Texas 77010  
(713) 752-4200 • fax (713) 752-4221  
www.jw.com



JACKSON WALKER L.L.P.

Mark A. Tidwell  
(713) 752-4578  
mtidwell@jw.com

September 30, 2003

VIA FACSIMILE NO.: 916-645-0605

Certified Article Number

CERTIFIED MAIL  
RRR # 7160 3901 9844 3624 8599

7160 3901 9844 3624 8599

SENDERS RECORD

Vaquero Trophy & Tack  
P.O. Box 598  
Lincoln, CA 95648

Re: Infringement of Bob Berg Intellectual Property

Dear Sirs:

This firm represents Bob Berg Buckles ("**Berg**") in connection with copyright, trademark, unfair competition and certain other matters. Berg has been designing and selling originally designed western jewelry, including belt buckles and trophies, since the late 1970s. During that time, Berg has secured copyright protection for his jewelry designs, and the distinctive designs have become uniquely recognizable by the public as originating with Berg. Berg's jewelry is well known to the consuming public as characterized by heavy, raised, half-rounded edges on which are set one or more oversized, tapered beads; vine/leaf scrollwork, often layered or stacked to provide a 3-dimensional effect; and a black background setting-off and highlighting the scrollwork (the "**Berg Elements**"). Examples of Berg's jewelry incorporating the Berg Elements are attached.

Any jewelry pieces incorporating the Berg Elements that your company is making, selling and otherwise distributing are an infringement of Berg's copyrights and product configuration rights in violation of federal and state statutes and laws. In this regard, it has come to our attention that you are making, selling and distributing jewelry incorporating the Berg Elements, including conchos, buckles, jewelry and knives as shown on the attached Exhibit A. These items are all offered for sale on your web site at [www.skylinevaquero.com/VAQUERO/vaquero.htm](http://www.skylinevaquero.com/VAQUERO/vaquero.htm). Therefore, we demand that you immediately cease and desist from all such infringing activity.

Berg's copyrights arise under 17 U.S.C. § 102(a) of the federal copyright statute and have been registered in accordance with 17 U.S.C. § 408. While Berg has secured a number of copyrights covering his jewelry designs over the years, U.S. Copyright Reg. No. VA-1-091-617, which issued on June 12, 2000, is his most comprehensive registration covering a wide array of Berg's jewelry. Any use, sale or other distribution of jewelry similar to Berg's jewelry is a violation of Berg's exclusive rights under 17 U.S.C. § 106 and § 113 which grant to Berg the right, among other things, to reproduce the copyrighted work, to distribute copies of the copyrighted work and to publicly display the copyrighted work. We would point out that under 17 U.S.C. § 501 of the federal copyright statute, "substantial similarity" between competing works, particularly where a competitor's work was copied, is an indication of copyright infringement.

Austin  
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Fort Worth  
Houston  
Richardson  
San Angelo  
San Antonio

Member of GLOBALAW<sup>TM</sup>

RB\_0652

Vaquero Trophy & Tack  
Page 2  
September 30, 2003

Remedies for copyright infringement can include temporary and permanent injunctions under 17 U.S.C. § 502, impounding and disposition of infringing articles under 17 U.S.C. § 503 and damages under 17 U.S.C. § 504. To be clear, damages may be assessed, at the election of the copyright holder, based on 1) the copyright owner's actual damages *plus* any additional profits of the infringer or 2) statutory damages of up to \$30,000 *per* infringing design. This amount of \$30,000 *per* infringing design inflates to \$150,000 per infringing design if such infringement is proven to be willful. Finally, the prevailing copyright holder in a copyright infringement action is entitled to receive reasonable attorney's fees incurred in enforcing said rights.

Likewise, your distribution and sale of jewelry having a confusingly similar design to Berg's jewelry is a clear violation of the federal Lanham Act, 15 U.S.C. § 1125(a), for unfair competition, palming off and trademark infringement, as well as common law trademark infringement. Through longstanding use, the Berg Elements as they are incorporated into Berg's product designs have achieved widespread regional and national recognition as a product configuration designating high-quality jewelry. This recognition was achieved through extensive marketing and advertising efforts. The public recognition and goodwill embodied in the Berg Elements is threatened and eroded by your continued unauthorized use. Specifically, your use of a product design incorporating the Berg Elements, or any elements confusingly similar thereto, unfairly trades on my client's goodwill, and is likely to cause confusion, mistake or deception as to the source and quality of your products and authorization, license or sponsorship by Berg, all of which is in violation of Section 43(a) of the federal Lanham Act. Such usage also dilutes my client's mark in violation of 43(c) of the Lanham Act. 15 U.S.C. § 1125. In this regard, Berg is very willing to enforce its rights in the Berg Elements via local Federal District Court and Texas State Court.

Under these various causes of action, Berg will strictly enforce its rights relating to its copyrights, product configuration rights and trademark rights. Although Berg respects the rights of others to fairly compete in the marketplace, any practice of preying on the confusion of customers through the use of Berg Elements in product designs will not be tolerated. Berg regards any further or additional use of the Berg Elements, or any device similar thereto, in your jewelry as "intentional" acts for which treble damages and attorney's fees will be claimed under the Lanham Act if this matter goes to court. Likewise, under separate causes of action, Berg will seek equitable and monetary damages from any party who produces jewelry substantially similar to Berg's copyright protected jewelry designs.

Therefore, we must insist that you immediately cease and desist from all use of the Berg Elements, or anything confusingly similar thereto, in your jewelry designs. If these steps are not taken on a prompt and voluntary basis, we will advise Berg to seek immediate injunctive relief, damages and/or other appropriate remedies.

In view of the importance of this matter to our client, please respond by **October 10, 2003**, advising of your intention to comply with the above demands and adequate means for providing proof of destruction of all infringing goods and materials. We also require a complete accounting of all infringing goods sold and payment of damages for such sales. If you comply with these demands, we will consider this matter closed.

Vaquero Trophy & Tack  
Page 3  
September 30, 2003


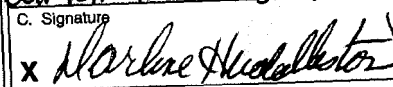
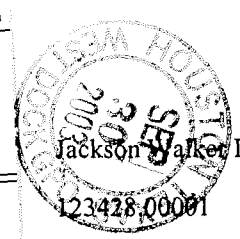
This letter is written without prejudice to our client's rights and remedies, all of which are expressly reserved.

Very truly yours,

JACKSON WALKER L.L.P.

Mark A. Tidwell

MAT:rt  
Enclosures

2. Article Number		COMPLETE THIS SECTION ON DELIVERY		1. 9844 3624 8599			
 7160 3901 9844 3624 8599		A. Received by (Please Print Clearly)	B. Date of Delivery	Trophy & Tack 598 CA 95648			
		Darlene Huddleston				10/1	
		C. Signature	X 			<input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
		D. Is delivery address different from item 1? If YES, enter delivery address below:				<input type="checkbox"/> Yes <input type="checkbox"/> No	
3. Service Type <b>CERTIFIED MAIL</b>		Reference: 123428.00001		 123428.00001 JACKSON WALKER LLP (MAT2)			
4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes		Charge To: 123428.00001					
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Vaquero Trophy & Tack P O Box 598 Lincoln CA 95648							
PS Form 3811, July 2001		Domestic Return Receipt		2000			
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				Receipt Fee			
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US Postal Service  
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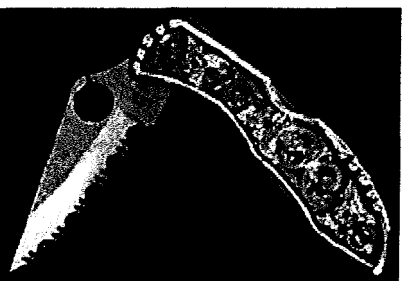
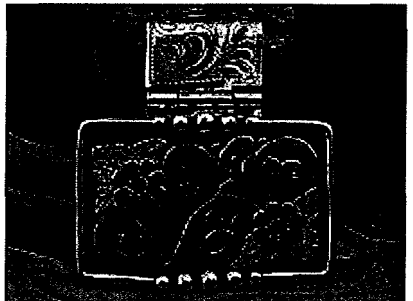
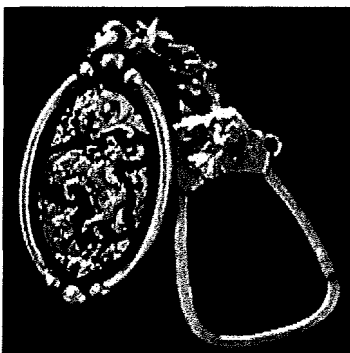
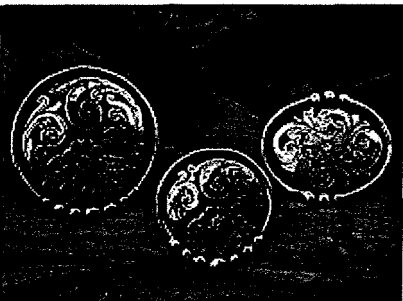
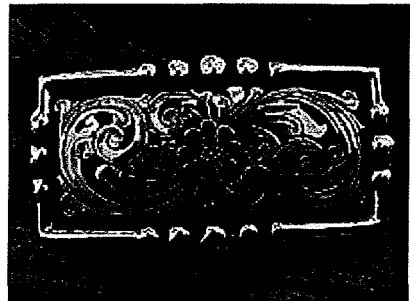
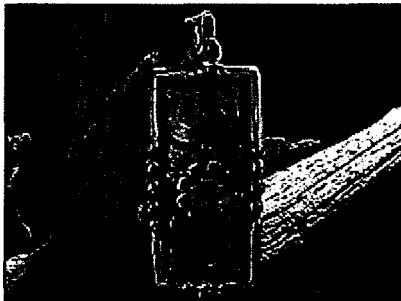
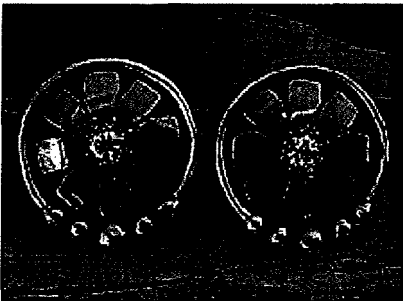
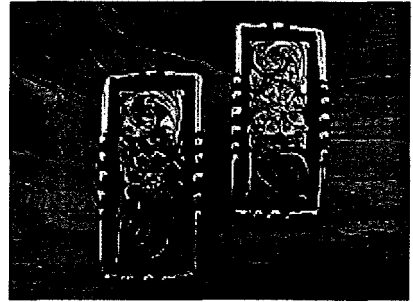
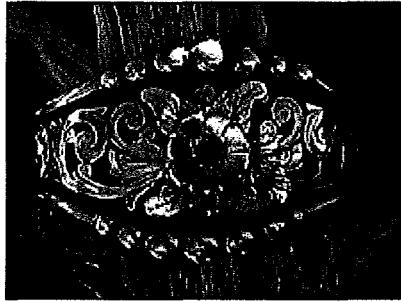
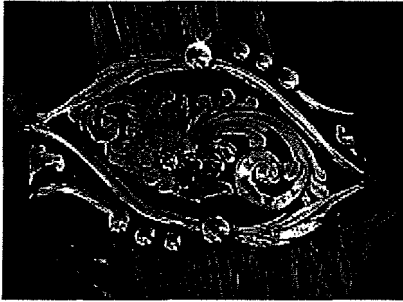
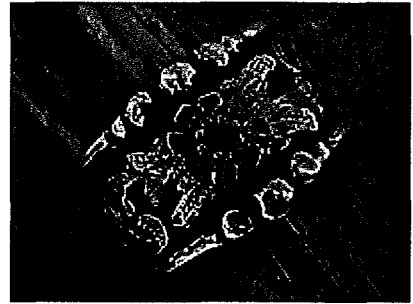
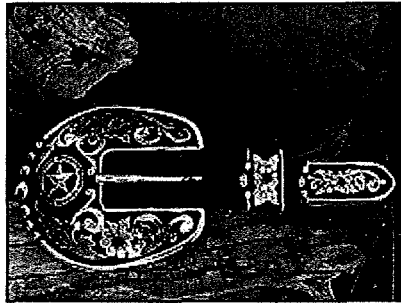
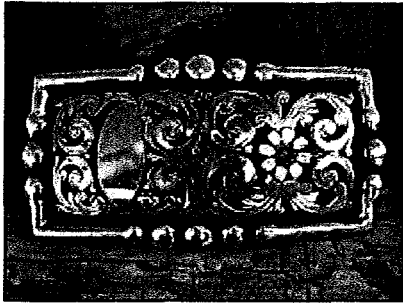
Vaquero Trophy & Tack

Page 4

September 30, 2003

bcc: Bob Berg Jewelry  
Linda Cole, Esq. (Firm)  
(w/encl.)

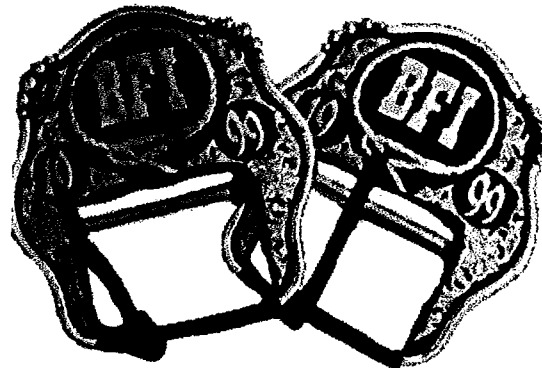
## Examples of Bob Berg Jewelry

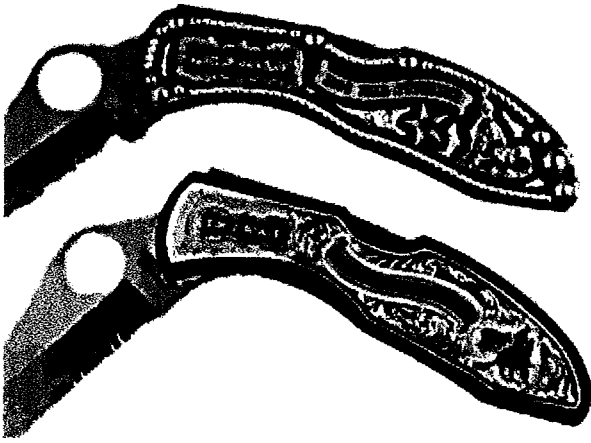




**Exhibit A**

**Vaquero Trophy & Tack  
P.O. Box 598  
Lincoln, Ca. 95648**







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Mark A. Tidwell  
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mtidwell@jw.com

September 30, 2003

VIA FACSIMILE (916) 645-0605

**CERTIFIED MAIL**  
**RRR #7160 3901 9844 3624 8582**

**Certified Article Number**

**7160 3901 9844 3624 8582**

**SENDERS RECORD**

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P.O. Box 397  
Lincoln, CA 95648

Re: Infringement of Bob Berg Intellectual Property

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Austin  
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San Antonio

Skyline Silversmith, Inc.

Page 2

September 30, 2003

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Skyline Silversmith, Inc.  
Page 3  
September 30, 2003

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Very truly yours,

JACKSON WALKER L.L.P.

*Mark A. Tidwell*  
Mark A. Tidwell

MAT:rt  
Enclosures

2. Article Number		<b>COMPLETE THIS SECTION ON DELIVERY</b>		1844 3624 8582	
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		Darlene Huddleston		10/10	
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4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes					
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Skyline Silversmiths Inc P O Box 397 Lincoln CA 95648		Reference: 123428.00001 Charge To: 123428.00001 Sender: Jackson Walker LLP (MAT2)		123428.00001	
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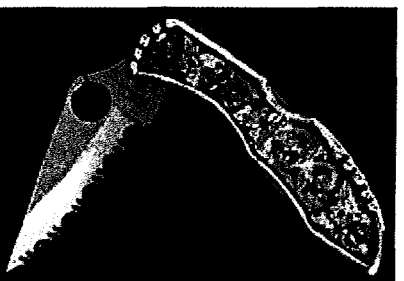
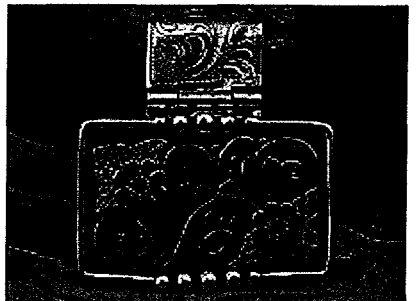
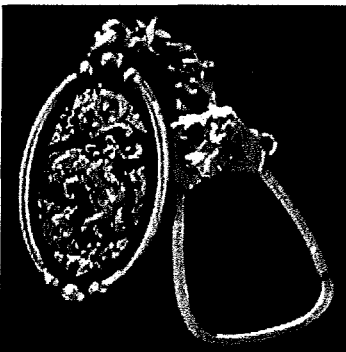
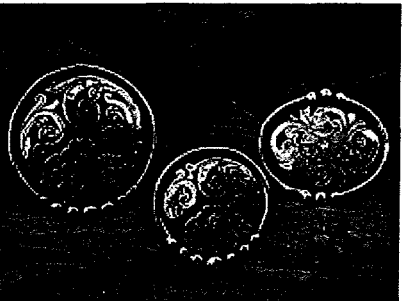
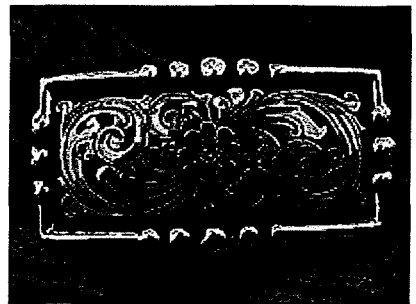
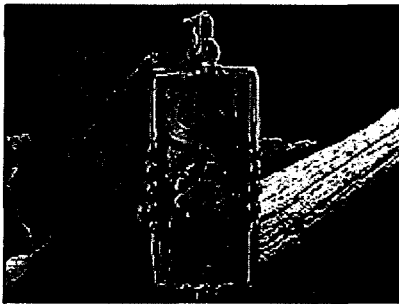
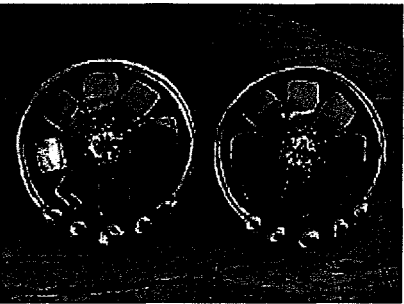
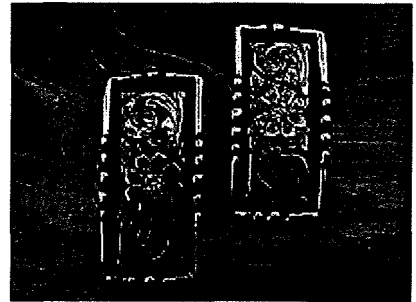
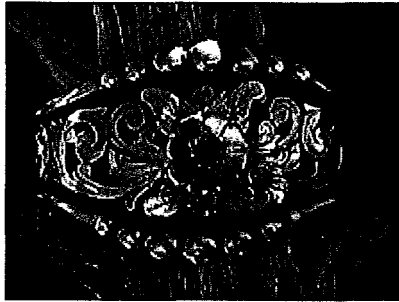
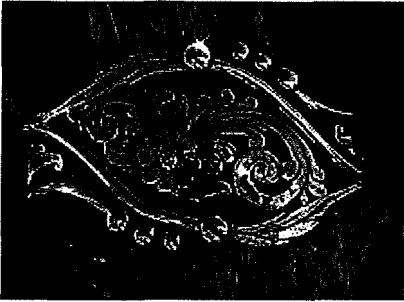
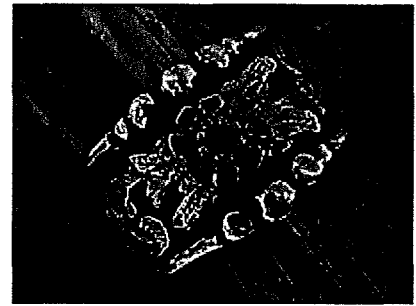
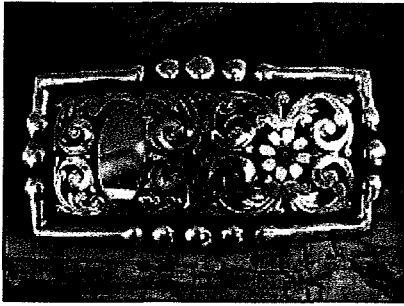
Skyline Silversmith, Inc.

Page 4

September 30, 2003

bcc: Bob Berg Jewelry  
Linda Cole, Esq. (Firm)  
(w/enclosures)

## Examples of Bob Berg Jewelry

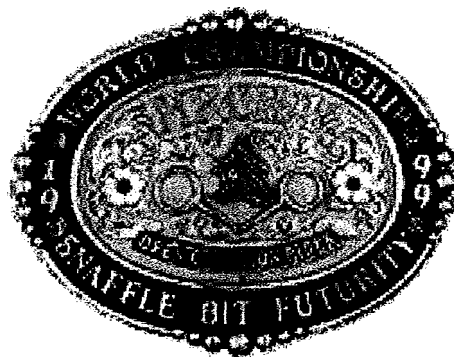
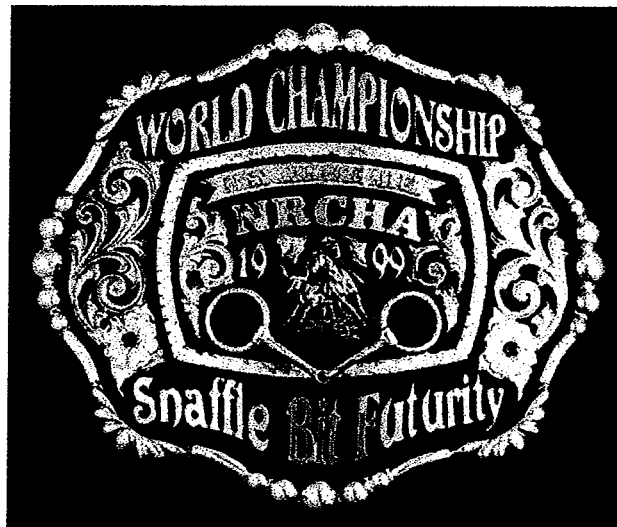


**Exhibit A**  
**Skyline Silversmiths, Inc.**  
**P.O. Box 397**  
**Lincoln, Ca. 95648**

**Bolo Ties**



**Belt Buckles**



\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
\*\*\*\*\*

TRANSMISSION OK

TX/RX NO  
CONNECTION TEL  
CONNECTION ID  
ST. TIME  
USAGE T  
PGS. SENT  
RESULT

4595

819166450605123428#00001

09/30 17:59

02:06

6  
OK

OR  
Complete

## ATTORNEYS &amp; COUNSELORS

1401 McKinney, Suite 1900  
Houston, Texas 77010  
(713) 752-4200, Fax (713) 752-4221  
www.jw.com



## FACSIMILE

DATE: September 30, 2003

TOTAL PAGE COUNT: 6

FROM: Mark A. Tidwell

DIRECT DIAL NUMBER: (713) 752-4578

NAME	COMPANY NAME	FACSIMILE NUMBER	PHONE NUMBER
	Skyline Silversmiths, Inc.	916-645-0605	

PLEASE CALL (713) 752-4578  
IF YOU DO NOT RECEIVE ALL PAGES.

FOR INTERNAL USE ONLY:

CLIENT/MATTER NO.: 123428-1

TIMEKEEPER: MAT2

MESSAGE:

This facsimile is intended only for the use of the addressee. If the addressee of this facsimile is a client or agent for one of our clients, you are further advised that the facsimile contains legally privileged and confidential information which we intended to send to the addressee only.

In any event, if you are not the intended recipient of the facsimile, you are hereby notified that you have received this facsimile inadvertently and in error. Any review, dissemination, distribution or copying of this is strictly prohibited. If you have received this in error, please immediately notify us by telephone and return the original facsimile to us at the address above via the United States Postal Service. We will reimburse any costs you incur in notifying us and returning the facsimile to us.

RB\_0667



ATTORNEYS & COUNSELORS

1401 McKinney, Suite 1900  
Houston, Texas 77010  
(713) 752-4200, Fax (713) 752-4221  
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DATE: September 30, 2003

TOTAL PAGE COUNT: 6

FROM: Mark A. Tidwell

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NAME	COMPANY NAME	FACSIMILE NUMBER	PHONE NUMBER
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CLIENT/MATTER NO.: 123428-1

TIMEKEEPER: MAT2

MESSAGE:

Austin  
Dallas  
Fort Worth  
Houston  
Richardson  
San Angelo  
San Antonio

Member of GLOBALAW™

**RB\_0668**

ATTORNEYS & COUNSELORS  
1401 McKinney Street, Suite 1900  
Houston, Texas 77010  
(713) 752-4200 • fax (713) 752-4221  
www.jw.com



JACKSON WALKER L.L.P.

Mark A. Tidwell  
(713) 752-4578  
mtidwell@jw.com

September 30, 2003

**VIA CERTIFIED MAIL**  
**RRR #7160 3901 9844 3624 8605**

**Certified Article Number**

**7160 3901 9844 3624 8605**

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Circle Y of Yoakum, Inc.  
201 West Morris St.  
Yoakum, TX 77995

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Dear Sir:

This firm represents Bob Berg Buckles ("**Berg**") in connection with copyright, trademark, unfair competition and certain other matters. Berg has been designing and selling originally designed western jewelry, including belt buckles and trophies, since the late 1970s. During that time, Berg has secured copyright protection for his jewelry designs, and the distinctive designs have become uniquely recognizable by the public as originating with Berg. Berg's jewelry is well known to the consuming public as characterized by heavy, raised, half-rounded edges on which are set one or more oversized, tapered beads; vine/leaf scrollwork, often layered or stacked to provide a 3-dimensional effect; and a black background setting-off and highlighting the scrollwork (the "**Berg Elements**"). Examples of Berg's jewelry incorporating the Berg Elements are attached.

Any jewelry pieces incorporating the Berg Elements that your company is making, selling and otherwise distributing are an infringement of Berg's copyrights and product configuration rights in violation of federal and state statutes and laws. In this regard, it has come to our attention that you are distributing infringing items at various rodeos and shows throughout the country, including the Houston Livestock Show and Rodeo. Therefore, we demand that you immediately cease and desist from all such infringing activity.

Berg's copyrights arise under 17 U.S.C. § 102(a) of the federal copyright statute and have been registered in accordance with 17 U.S.C. § 408. While Berg has secured a number of copyrights covering his jewelry designs over the years, U.S. Copyright Reg. No. VA-1-091-617, which issued on June 12, 2000, is his most comprehensive registration covering a wide array of Berg's jewelry. Any use, sale or other distribution of jewelry similar to Berg's jewelry is a violation of Berg's exclusive rights under 17 U.S.C. § 106 and § 113 which grant to Berg the right, among other things, to reproduce the copyrighted work, to distribute copies of the copyrighted work and to publicly display the copyrighted work. We would point out that under 17 U.S.C. § 501 of the federal copyright statute, "substantial similarity" between competing works, particularly where a competitor's work was copied, is an indication of copyright infringement.

Austin  
Dallas  
Fort Worth  
Houston  
Richardson  
San Angelo  
San Antonio

Member of GLOBALAW™

**RB\_0669**

Circle Y of Yoakum, Inc.

Page 2

September 30, 2003

Remedies for copyright infringement can include temporary and permanent injunctions under 17 U.S.C. § 502, impounding and disposition of infringing articles under 17 U.S.C. § 503 and damages under 17 U.S.C. § 504. To be clear, damages may be assessed, at the election of the copyright holder, based on 1) the copyright owner's actual damages *plus* any additional profits of the infringer or 2) statutory damages of up to \$30,000 *per* infringing design. This amount of \$30,000 *per* infringing design inflates to \$150,000 *per* infringing design if such infringement is proven to be willful. Finally, the prevailing copyright holder in a copyright infringement action is entitled to receive reasonable attorney's fees incurred in enforcing said rights.

Likewise, your distribution and sale of jewelry having a confusingly similar design to Berg's jewelry is a clear violation of the federal Lanham Act, 15 U.S.C. § 1125(a), for unfair competition, palming off and trademark infringement, as well as common law trademark infringement. Through longstanding use, the Berg Elements as they are incorporated into Berg's product designs have achieved widespread regional and national recognition as a product configuration designating high-quality jewelry. This recognition was achieved through extensive marketing and advertising efforts. The public recognition and goodwill embodied in the Berg Elements is threatened and eroded by your continued unauthorized use. Specifically, your use of a product design incorporating the Berg Elements, or any elements confusingly similar thereto, unfairly trades on my client's goodwill, and is likely to cause confusion, mistake or deception as to the source and quality of your products and authorization, license or sponsorship by Berg, all of which is in violation of Section 43(a) of the federal Lanham Act. Such usage also dilutes my client's mark in violation of 43(c) of the Lanham Act. 15 U.S.C. § 1125. In this regard, Berg is very willing to enforce its rights in the Berg Elements via local Federal District Court and Texas State Court.

Under these various causes of action, Berg will strictly enforce its rights relating to its copyrights, product configuration rights and trademark rights. Although Berg respects the rights of others to fairly compete in the marketplace, any practice of preying on the confusion of customers through the use of Berg Elements in product designs will not be tolerated. Berg regards any further or additional use of the Berg Elements, or any device similar thereto, in your jewelry as "intentional" acts for which treble damages and attorney's fees will be claimed under the Lanham Act if this matter goes to court. Likewise, under separate causes of action, Berg will seek equitable and monetary damages from any party who produces jewelry substantially similar to Berg's copyright protected jewelry designs.

Therefore, we must insist that you immediately cease and desist from all use of the Berg Elements, or anything confusingly similar thereto, in your jewelry designs. If these steps are not taken on a prompt and voluntary basis, we will advise Berg to seek immediate injunctive relief, damages and/or other appropriate remedies.

In view of the importance of this matter to our client, please respond by October 10, 2003, advising of your intention to comply with the above demands and adequate means for providing proof of destruction of all infringing goods and materials. We also require a complete accounting of all infringing goods sold and payment of damages for such sales. If you comply with these demands, we will consider this matter closed.

Circle Y of Yoakum, Inc.

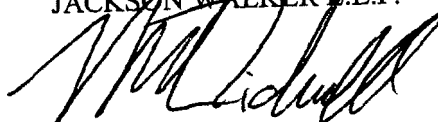
Page 3

September 30, 2003

This letter is written without prejudice to our client's rights and remedies, all of which are expressly reserved.


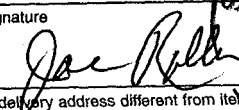

Very truly yours,

JACKSON WALKER L.L.P.



Mark A. Tidwell

MAT:rt  
Enclosures

2. Article Number		<b>COMPLETE THIS SECTION ON DELIVERY</b>	
 <b>7160 3901 9844 3624 8605</b>		A. Received by (Please Print Clearly)	B. Date of Delivery
		C. Signature	
		X 	<input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee
		D. Is delivery address different from item 1? <input checked="" type="checkbox"/> Yes If YES, enter delivery address below: <b>566LL</b> <input type="checkbox"/> No	
3. Service Type <b>CERTIFIED MAIL</b>			
4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes			
1. Article Addressed to:			
Circle Y of Yoakum Inc 201 West Morris St Yoakum TX 77995		Reference: 123428.00001 Charge To: 123428.00001 Sender: <b>MAT2</b>	
		Yoakum Inc Morris St TX 77995	
PS Form 3811, July 2001		Domestic Return Receipt	
		123428.00001	

PS Form 3800, June 2000		
RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Restricted Delivery	
	Total Postage & Fees	
US Postal Service		POSTMARK OR DATE
<b>Receipt for Certified Mail</b>		
No Insurance Coverage Provided Do Not Use for International Mail		

RB\_0671

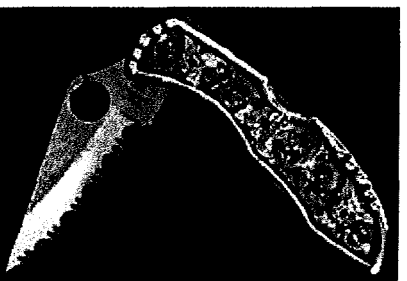
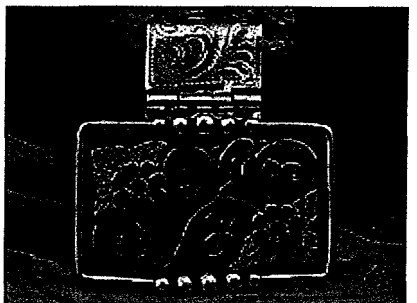
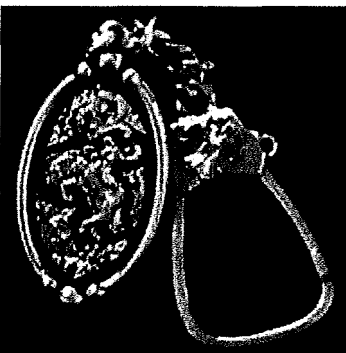
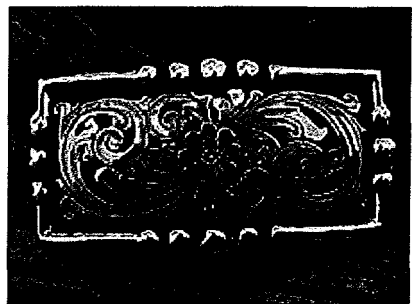
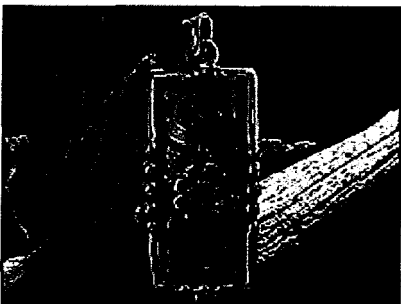
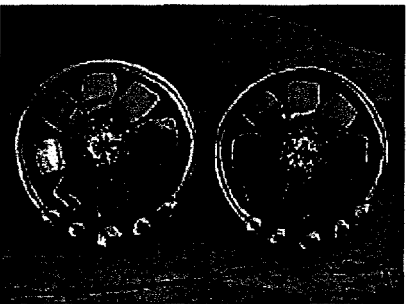
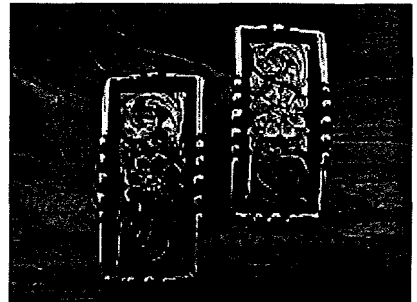
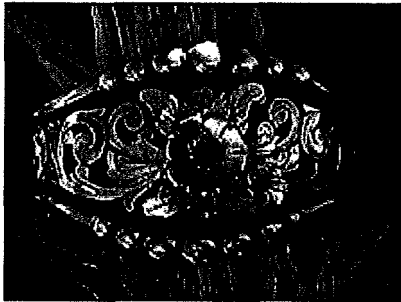
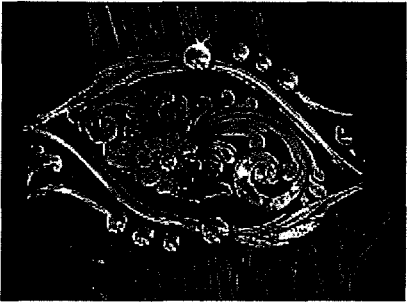
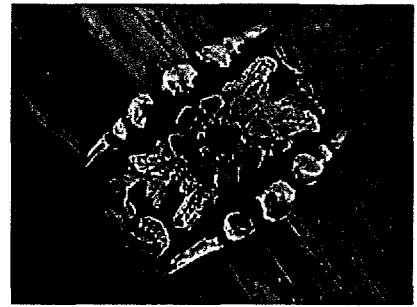
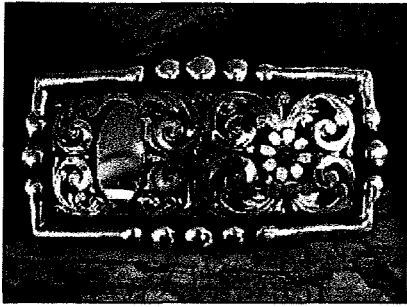
Circle Y of Yoakum, Inc.

Page 4

September 30, 2003

bcc: Bob Berg Jewelry  
Linda Cole, Esq. (Firm)  
(w/enclosures)

## Examples of Bob Berg Jewelry





## CERTIFICATE OF REGISTRATION

FORM VA

For a Work of the Visual Arts  
UNITED STATES COPYRIGHT OFFICE

OFFICIAL SEAL

This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Marybeth Peters*  
REGISTER OF COPYRIGHTS  
United States of America

VA 1-091-617



EFFECTIVE DATE OF REGISTRATION

JUN 12 2000

Month Day Year

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

1

TITLE OF THIS WORK ▼

*Bob Berg Jewelry*  
PREVIOUS OR ALTERNATIVE TITLES ▼  
*Bob Berg Buckles*

NATURE OF THIS WORK ▼ See instructions

*Jewelry Design*

PUBLICATION AS A CONTRIBUTION If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work ▼

If published in a periodical or serial give: Volume ▼

Number ▼

Issue Date ▼

On Pages ▼

2

NAME OF AUTHOR ▼

*a Robert Peter Berg*

DATES OF BIRTH AND DEATH

Year Born ▼ Year Died ▼

*1952*

Was this contribution to the work a "work made for hire"?

☐ Yes  
☐ No

AUTHOR'S NATIONALITY OR DOMICILE

Name of Country

OR Citizen of *Australia*  
Domiciled in *Texas, USA*

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☐ No  
Pseudonymous? ☐ Yes ☐ No

If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Check appropriate box(es). See instructions

☐ 3-Dimensional sculpture ☐ Map ☐ Technical drawing  
☐ 2-Dimensional artwork ☐ Photograph ☐ Text  
☐ Reproduction of work of art ☒ Jewelry design ☐ Architectural work  
☐ Design on sheetlike material

NAME OF AUTHOR ▼

*b*

DATES OF BIRTH AND DEATH

Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"?

☐ Yes  
☐ No

AUTHOR'S NATIONALITY OR DOMICILE

Name of Country

OR Citizen of \_\_\_\_\_  
Domiciled in \_\_\_\_\_

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☐ No  
Pseudonymous? ☐ Yes ☐ No

If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Check appropriate box(es). See instructions

☐ 3-Dimensional sculpture ☐ Map ☐ Technical drawing  
☐ 2-Dimensional artwork ☐ Photograph ☐ Text  
☐ Reproduction of work of art ☐ Jewelry design ☐ Architectural work  
☐ Design on sheetlike material

YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED

*a 2000*

This information must be given in all cases

DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK

Complete this information ONLY if this work has been published

Month *January* Day *31* Year *2000*  
*USA* Nation

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼

*Robert Peter Berg*  
*P.O. Box 817*  
*Claburne, TX 76033*

TRANSFER If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼

APPLICATION RECEIVED

MAY 07 2001 JUN 19 2001

ONE DEPOSIT RECEIVED

JUN 12 2000

TWO DEPOSITS RECEIVED

FUNDS RECEIVED

DO NOT WRITE HERE OFFICE USE ONLY

MORE ON BACK ▶

• Complete all applicable spaces (numbers 1-9) on the reverse side of this page  
• See detailed instructions • Sign the form on line 9

DO NOT WRITE HERE

Page 1 of 2 pages

RB\_0710



**U.S. Copyright Reg. No. VA-1-091-617**

The deposit materials appear to be the entire contents of the black binder dated June 12, 2001.

**BARRETTS**

**1500 SERIES**



**1501**  
**\$149.00**



**1502**  
**\$149.00**



**1503**  
**\$119.00**  
**1503-N**  
**\$95.00**



**1504**  
**\$139.00**



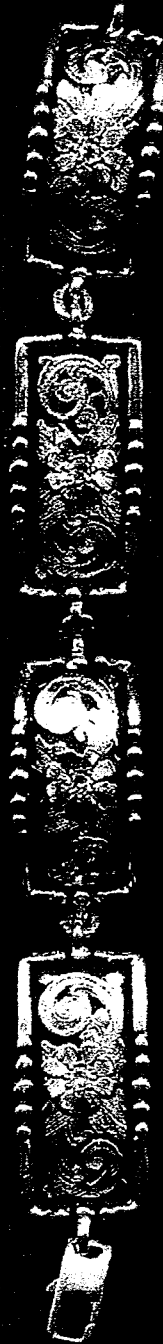
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# BRACELETS

## 2000 SERIES



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\$349.00



2003  
\$395.00



2004  
6 - \$329.00

2004  
7 - \$349.00



2005  
6 - \$329.00

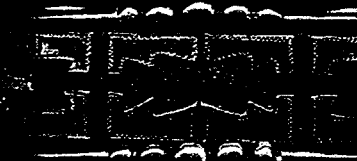
2005  
7 - \$349.00



2020  
\$339.00



2021  
\$325.00



2022  
\$195.00



2023  
\$345.00

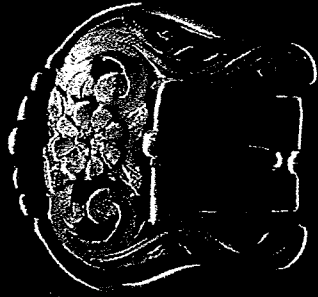
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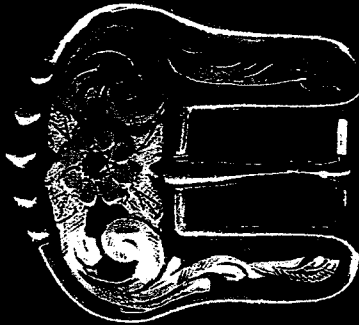
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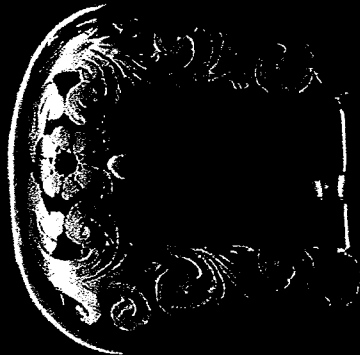
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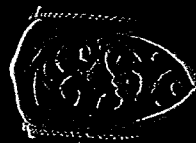
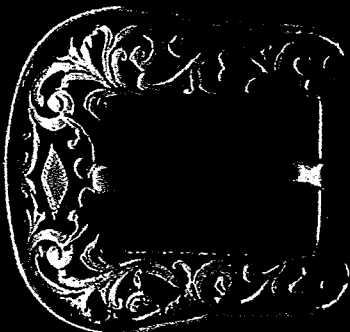
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3/4 INCH



2502  
\$389.00

3/4 INCH



2503  
\$195.00

2500  
01

RB\_0715

CONCHOS

000 SERIES



4001  
\$69.00  
4001-P  
\$35.00



4002  
\$69.00



4003  
\$69.00



4004  
\$45.00



4005  
\$125.00



4006  
\$189.00



4007  
\$139.00  
4007-N  
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4008-P  
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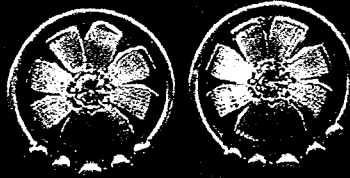
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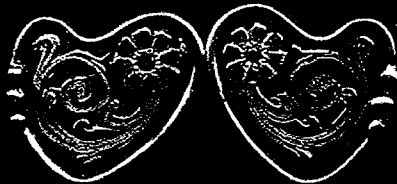
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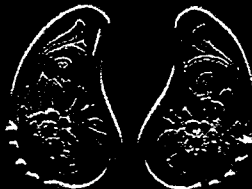
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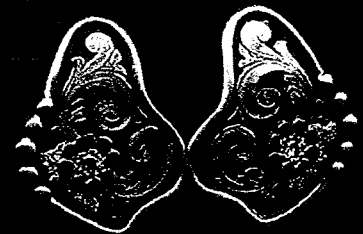
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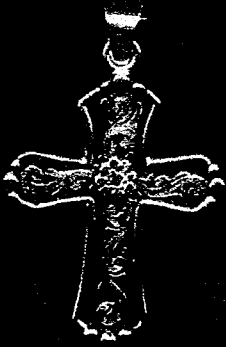


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**PENDANTS**

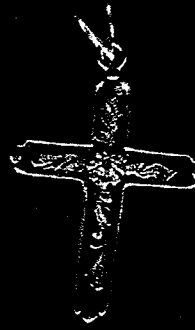
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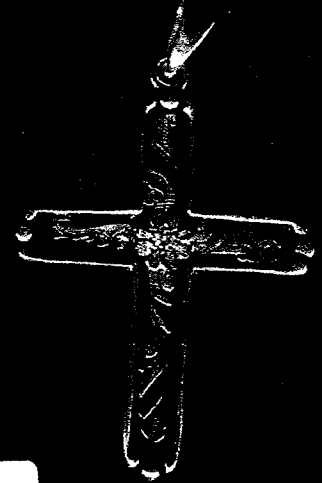
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**6503**  
**\$99.00**



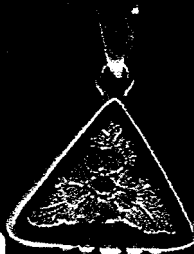
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**6505**  
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**6507**  
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**6508**  
**\$95.00**



**6509**  
**\$139.00**



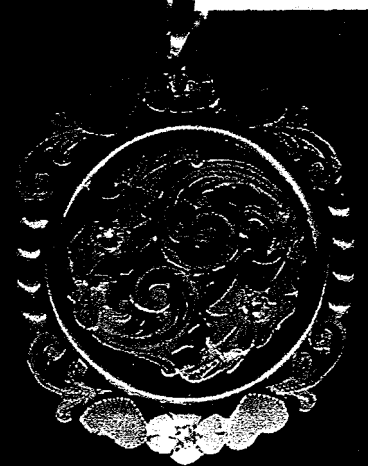
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**6511**  
**\$119.00**



**6512**  
**\$245.00**



**6513**  
**\$295.00**

**U.S. Bureau of Customs  
And Border Protection**

**Intellectual Property Rights Complaint**

**Complainant: Bob Berg Buckles**

**Date: April 7, 2003**

**Submitted by:  
Mark Tidwell  
Jackson Walker L.L.P.  
1401 McKinney, Suite 1900  
Houston, Texas 77010  
Phone: (713) 752-4578  
Fax: (713) 752-4221  
Email: mtidwell@jw.com**

**Exhibits and Attachments**

**Exhibit A – Bob Berg Copyrights Chart**

**Exhibit B – Statement of Case and Injury**

**Attachment A – Color photos of Bob Berg jewelry illustrating unique style**

**Attachment B – Copyright registration certificates, including deposit material.**

**Attachment C – Representative photos of traditional, non-infringing western jewelry design.**

**Attachment D – HyOSilver Web pages illustrating infringing products**

**Attachment E – Cowboy Buckles Navia Web pages illustrating infringing products**

**Attachment F – OUTLAW advertisement illustrating infringing products**

**Attachment G – “How Berg Beauties Changes an Industry”**

**National IPR Coordination Center Complaint Referral Form**

**I. Complainant Information**

- A. Date of Complaint: March 3, 2003.
- B. Name of Complainant: Robert Peter Berg d/b/a Bob Berg Buckles d/b/a Silverdales.
- C. Complainant Business Address: 2517 County Road 312, Cleburne, TX 76031.
- D. Attorneys Representing Complaint: Mark A. Tidwell, Jackson Walker L.L.P. (All communications regarding the Complaint should be directed to Mark A. Tidwell on behalf of the Complainant.)
- E. Attorney Business Address: 1401 McKinney Street, Suite 1900, Houston, Texas 77010.
- F. Attorney Contact Information: 713-752-4578 (phone) 713-752-4221 (fax)
- G. Attorney E-mail: mtidwell@jw.com
- H. Description of Copyrighted Product: See Attached Chart, Exhibit A.
- I. Is the Copyrighted Product resisted with the U.S. Copyright Office: YES
- J. List of U.S. Copyright Registrations covering Copyrighted Product: See Attached Chart, Exhibit A.
- K. U.S. Customs Office Recordation Number for Copyright Registration:  
\_\_\_\_\_.

**II. Violator Information.**

The Complaint is being filed against Business/Company and Individuals.

A. Information about Businesses/Individuals. No litigation claims have been filed against the following individuals with respect to the subject matter.

1. Joanne Symons d/b/a HyOSilver, P.O. Box 2488, Bandera, Texas 78003. Phone: 877-796-7961. Fax: 877-796-7962. Website: [www.hyosilver.com](http://www.hyosilver.com). Joanne Symons Soc. Sec. #: 630-56-9381. DOB: 01-18-62. Citizenship: Australia. Home Address: 1<sup>st</sup> Oak Drive, Bandera, Texas 78003.

2. Cesar Navia a/k/a Cesar N. Moya d/b/a Cowboy Buckles Navia S.A. de C.V., Cerro de Cuatro No. 1179 Col. Lomas Independencia CP. 44340 Guadalajara, Jalisco, Mexico. Phone: 523-36-38-7254. Fax: 523-36-51-1414. Website: [www.bucklesnavia.com](http://www.bucklesnavia.com). Alternate Website: [www.deoroyplata.com/templates/template3.asp?usuario=51](http://www.deoroyplata.com/templates/template3.asp?usuario=51).

3. Jean Steele d/b/a JMR Western Furnishings, 533 Abney Lane, Magnolia, Texas 77355. Phone: 281-356-8688.

4. Patricia Larios d/b/a Furia Salvaje, Belisario Domingues 1478 Col. Lomas Independencia CP. 44770 Guadalajara, Jalisco, Mexico. Phone: 36-22-9911.

5. Outlaw Trophy Buckles & Jewelry, 1477 CR 405, Floresville, Texas 78114. Phone 830-216-4331. Fax 830-393-4266.

### III. Violation.

A. Type of Infringement: Copyright and Trademark.

B. Description of Infringing Merchandise: Jewelry, namely western belt buckles, bracelets, earrings, pendants, spurs, hat crown, necklace, conchos, saddle plates, barrettes, cuffs and trophies.

C. Basis for suspecting counterfeit Merchandise: See Attached Statement, Exhibit B.

D. Sample of Infringing Product: YES

E. Country of Origin of Infringing Product: Mexico.

F. The infringing products are being distributed from the following locations by the following entities:

1. Joanne Symons d/b/a HyOSilver, P.O. Box 2488, Bandera, Texas 78003. Phone: 877-796-7961. Fax: 877-796-7962. Website: [www.hyosilver.com](http://www.hyosilver.com). Joanne Symons Soc. Sec. #: 630-56-9381. DOB: 01-18-62. Citizenship: Australia. Home Address: 1<sup>st</sup> Oak Drive, Bandera, Texas 78003.

2. Cesar Navia a/k/a Cesar N. Moya d/b/a Cowboy Buckles Navia S.A. de C.V., Cerro de Cuatro No. 1179 Col. Lomas Independencia CP. 44340 Guadalajara, Jalisco, Mexico. Phone: 523-36-38-7254. Fax: 523-36-51-1414. Website: [www.bucklesnavia.com](http://www.bucklesnavia.com). Alternate Website: [www.deoroyplata.com/templates/template3.asp?usuario=51](http://www.deoroyplata.com/templates/template3.asp?usuario=51).

3. Jean Steele d/b/a JMR Western Furnishings, 533 Abney Lane, Magnolia, Texas 77355. Phone: 281-356-8688.

4. Patricia Larios d/b/a Furia Salvaje, Belisario Domingues 1478 Col. Lomas Independencia CP. 44770 Guadalajara, Jalisco, Mexico. Phone: 36-22-9911.

5. Outlaw Trophy Buckles & Jewelry, 1477 CR 405, Floresville, Texas 78114. Phone 830-216-4331. Fax 830-393-4266.

G. The following entities are the foreign manufacturers of the infringing products:

1. Cesar Navia a/k/a Cesar N. Moya d/b/a Cowboy Buckles Navia S.A. de C.V., Cerro de Cuatro No. 1179 Col. Lomas Independencia CP. 44340 Guadalajara, Jalisco, Mexico. Phone: 523-36-38-7254. Fax: 523-36-51-1414. Website: [www.bucklesnavia.com](http://www.bucklesnavia.com). Alternate Website: [www.deoroyplata.com/templates/template3.asp?usuario=51](http://www.deoroyplata.com/templates/template3.asp?usuario=51).

2. Patricia Larios d/b/a Furia Salvaje, Belisario Domingues 1478 Col. Lomas Independencia CP. 44770 Guadalajara, Jalisco, Mexico. Phone: 36-22-9911.

H. The products are believed to be shipped into the United States using standard freight carriers such as United Parcel Service (UPS), Federal Express (FedEx) and DHL.

I. The infringing products do not present potential health or safety issues.

J. This information has not been referred to any law enforcement agency or government agency.

#### **VI. Additional Information.**

A. Authorized Foreign Manufactures: Lady Luck Metals, S.A. de C.V., Aqestin Rivera No. 824 Colonia el Retiro, CP. 44280 Guadalajara, Jalisco, Mexico. Contact: Ms. Margarita Garcia Ponce. All products are manufactured exclusively for distribution by Bob Berg Buckles and Silverdales.

B. For each manufacturer listed above in item number six, the manner in which the applicant consented to the manufacture --for example, by contract, by corporate affiliation, or by some other arrangement (in this case, please identify): By oral contract.

C. The place(s), including the principal business address(es), where genuine copies of the protected work are legally manufactured without the applicant's

consent -- for example, countries in which another party also owns a copyright in the work. Provide the name of each foreign person or business entity engaged in such manufacturing abroad, as well as the foreign title of the work if it is different from the American title: None are known.

D. If you are claiming rights under the *Berne Convention for the Protection of Literary and Artistic Works (Paris Text, 1971)* instead of by registration with the U.S. Copyright Office of the Library of Congress, provide a statement explaining how the Berne Convention applies: No rights are being claimed under the Berne Convention.

E. Five photographic or other likenesses of the copyright work are attached.



**1. Registration Number:** VA-530-294

**Title:** Pecos : no. 1-2. Cheyenne : no. 1. Oval : no. SW4. Skull : no. SW5 ...  
[et. al]

**Description:** Belt buckles.

**Claimant:** acRobert P. Berg

**Created:** 1992

**Published:** 26Sep92

**Registered:** 23Oct92

**Special Codes:** 5/S

**2. Registration Number:** VA-547-192

**Title:** Feather ; Crescent ; Small filigree ... [et al.] / Robert P. Berg.

**Description:** 7 sculptures : belt buckles.

**Claimant:** acRobert P. Berg

**Created:** 1992

**Published:** 15Jan93

**Registered:** 5Feb93

**Special Codes:** 5/S

**3. Registration Number:** VAu-292-803

**Title:** Hitched renegade.

**Description:** Design on straw hat.

**Claimant:** acRobert P. Berg , 1952-

**Created:** 1994

**Registered:** 24Oct94

**Special Codes:** 5/S

**4. Registration Number:** VA-817-815

**Title:** Bandera collection.

**Description:** Drawings.

**Note:** Jewelry designs.

**Claimant:** acRobert P. Berg , 1952-

**Created:** 1995

**Published:** 12Jan96

**Registered:** 10Jun96

**Exhibit A**  
**Robert P. Berg**  
**Copyright Registration Information**

Registration No.	Title	Description	Reg. Date	Comments
VA-530-294	Pecos : no. 1-2. Cheyenne : no. 1. Oval : no. SW4. Skull : no. SW5 ...	Belt Buckles	10/23/92	
VA-547-192	Feather ; Crescent ; Small filigree ... [et al.] / Robert P. Berg.	7 sculptures : belt buckles.	02/05/93	
VAu-292-803	Hitched renegade.	Design on straw hat.	10/24/94	
VA-817-815	Bandera collection.	Drawings--jewelry designs.	06/10/96	
VA-1-076-361	ProBull Rider champion cup	Jewelry.	12/27/00	Submission - 1 color picture and sketches of PBR cup
VA-1-091-617	Bob Berg buckles/ Bob Berg jewelry.	Collection.	06/12/00	Submission - Appears to be entire contents of spiral bound black binder
VA-1-096-096	Pro bull rider champion buckle.	Belt buckle. [2000 Bud Light Cup]	12/27/00	Submission-1 color photo of belt buckle; several sketches of belt buckle and PBR cup design, including bull/cowboy handles and overall cup.
VA-1-108-395	Bob Berg jewelry : Bob Berg buckles		12/06/01	
VA-1-159-548	Bob Berg Buckles: Bob Berg Jewelry	Buckles, hat crown, necklace, conchos, saddle plates, barrettes, cuffs and bracelets.	07/26/02	Submission-7 color pages of belt buckles, saddle plates, hat crown, necklace, bracelets, barrettes, photo of belt buckle; 19 pages of sketches depicting belt buckle designs of various shapes with various bead designs on outer edge; 2 pendant sketches.

**Special Codes:** 5/S

**5. Registration Number:** VA-1-076-361

**Title:** ProBull Rider champion cup

**Description:** Jewelry.

**\*Submission:** 1 color picture and sketches of PBR cup

**Note:** Title from appl.

**Claimant:** acRobert Peter Berg , 1952-

**Created:** 2000

**Published:** 30Oct00

**Registered:** 27Dec00

**Special Codes:** 5/S

**6. Registration Number:** VA-1-091-617

**Title:** Bob Berg jewelry.

**Submission:** ---

**Note:** Collection.

**Claimant:** acRobert Peter Berg , 1952-

**Created:** 2000

**Published:** 31Jan00

**Registered:** 12Jun00

**Title on © Application:** Bob Berg buckles.

**Claim Limit:** NEW MATTER: additions to preexisting items.

**Miscellaneous:** C.O. corres.

**Special Codes:** 5/S

**7. Registration Number:** VA-1-096-096

**Title:** Pro bull rider champion buckle.

**Description:** Belt buckle. [2000 Bud Light Cup]

**\*Submission:** 1 color photo of belt buckle; several sketches of belt buckle and PBR cup design, including bull/cowboy handles and overall cup.

**Claimant:** acRobert Peter Berg , 1952-

**Created:** 2000

**Published:** 30Oct00

**Registered:** 27Dec00

**Special Codes:** 5/S

8. Registration Number: VA-1-108-395

Title: [Bob Berg jewelry : Bob Berg buckles]

Submission:

Note: Titles from appl.

Claimant: acRobert Peter Berg , 1952-

Created: 2001

Published: 30Jun01

Registered: 6Dec01

Special Codes: 5/S

9. Registration Number: VA-1-159-548

Title: Bob Berg Buckles: Bob Berg Jewelry

Description: Buckles, hat crown, necklace, conchos, saddle plates, barrettes, cuffs and bracelets.

\*Submission: 7 color pages of belt buckles, saddle plates, hat crown, necklace, bracelets, barrettes, photo of belt buckle; 19 pages of sketches depicting belt buckle designs of various shapes with various bead designs on outer edge; 2 pendant sketches.

Claimant: acRobert Peter Berg , 1952-

Created: 2002

Published: 01Jun02

Registered: 26Jul02

Special Codes: 5/S

\* - Copies of these original submissions are included with the files.

**Exhibit B**  
**Statement of Case and Injury**

**I. Description of the Product and U.S. Copyright Registrations**

Bob Berg is a retired rodeo competitor who began designing western jewelry, belt buckles and rodeo trophies back in the early 1970s. Bob Berg's products are characterized by a combination of tri-colored gold (red, green and yellow) scrollwork, often layered or stacked to provide a 3-dimensional effect, surrounded by a flat black background. The pieces are typically edged in a heavy, raised and half-rounded, sterling silver setting characterized by one or more oversized beads. Often there are multiple beads in a row, generally three to seven, in which the beads are tapered, i.e., smaller beads in descending size are centered around a larger bead. The pieces may also include a pedaled flower design with a semi-precious stone at the center of the flower, wherein the flower is incorporated in the scroll, often on a separate layer. In more recent designs, the pedals of the flowers are domed. See Attachments A and G.

In short, Bob Berg jewelry is recognizable because of a combination of one or more of these original elements, namely i) tri-colored gold scrollwork; ii) flat black background; iii) heavy, raised and rounded, sterling silver setting characterized by one or more oversized beads; and iv) multiple beads in a row, generally three, five or seven, in which smaller beads in descending size are centered around a larger bead.

These designs and the jewelry have been registered with the U.S. Copyright Office under various Reg. Nos. VA-530-294, VA-547-192, VAu-292-803, VA-817-815, VA-1-076-361, VA-1-091-617, VA-1-096-096, VA-1-108-395 and VA-1-159-548. These registrations include issue dates in 1992, 1993, 1994, 1996, 2000, 2001 and 2002. See Attachment B.

The elements that characterize Bob Berg design protected under these are original in western jewelry design. In contrast, traditional western jewelry is characterized by pieces having a rope edge with a silver/gray or gold background. See Attachment C.

**II. Description of the Counterfeiting Activity**

Originally, Bob Berg created and manufactured his own products in Texas. In order to reduce costs, manufacturing was moved to Mexico in 1995. Specifically, Bob Berg set up a manufacturing factory in Guadalajara, Mexico and moved most of his manufacturing equipment, including molds, dies, forms, drawings and design specifications into the factory. As a principle craftsman, Bob Berg hired Cesar Navia a/k/a Cesar N. Moya ("Navia") and trained him in the silversmith techniques developed by Berg. Navia was given full, unrestricted access to all of the factory equipment, as well as the drawings and design specifications for the Bob Berg products. Navia began manufacturing Bob Berg products exclusively for Bob Berg and his two businesses, Bob Berg Buckles and Silverdales. Navia was not granted any right to manufacture or distribute the Bob Berg products for any other individual or entity, including Navia himself.

In 2000, Joanne Symons and Gary Ballenger, former employees of Bob Berg Buckles, contacted Navia and convinced him to begin manufacturing counterfeit products for their business, HyOSilver,

located in Bandera, Texas. Under this arrangement, Navia removed all of Bob Berg's equipment and designs, including dies, casting, over 70 rubber molds and figures, 3 Graver Max Machines, 1 Flex Shaft Machine, buckle blanks, assorted tools, a computer, all original artwork and jewelry artwork computer files, gold sheets and semi-precious stones, from the Guadalajara facility, established a new shop in Guadalajara, and began manufacturing counterfeit products for distribution in the United States by HyOSilver. These counterfeit products are currently for sale through HyOSilver and are advertised on the HyOSilver website located at [www.hyosilver.com](http://www.hyosilver.com). See Attachment D. These products were imported directly from Mexico by HyOSilver utilizing standard couriers such as DHL, Federal Express and UPS.

It is believed that these products were originally manufactured exclusively for HyOSilver. On or about May 2002, Navia terminated his relationship with HyOSilver and began manufacturing counterfeit Bob Berg products for his own business, Cowboy Buckles Navia, which distributes the counterfeit Bob Berg products in the United States through Jean Steele of JMR Western Furnishings. In addition, these Navia counterfeit Bob Berg products are being directly marketed in the United States over the Internet at the Cowboy Buckles Navia website located at [www.bucklesnavia.com](http://www.bucklesnavia.com). See Attachment E, and are being marketed in the United States by Outlaw Trophy Buckles & Jewelry. See Attachment F.

Upon cessation of the business relationship with Navia, HyOSilver engaged Patricia Larios of Furia Salvaje, also located in Guadalajara, Mexico, to continue to produce the counterfeit Bob Berg products for HyOSilver.

Currently, Bob Berg products are legally manufactured by Lady Luck Metals, also located Guadalajara, Mexico, exclusively for Bob Berg and his two businesses, Bob Berg Buckles and Silverdales. Neither Lady Luck Metals or any other foreign entity, has been granted any right to manufacture or distribute the Bob Berg products for any individual or entity other than Bob Berg and his two businesses.

Thus, there are two sources for counterfeit Bob Berg products in Mexico, namely Cesar Navia a/k/a Cesar N. Moya d/b/a Cowboy Buckles Navia and Furia Salvaje, both located in Guadalajara, Mexico. The counterfeit products are being distributed imported and distributed in the United States by Joanne Symons of HyOSilver, Jean Steele of JMR Western Furnishings and Outlaw Trophy Buckles & Jewelry. In addition, the counterfeit products are being marketed over the Internet and distributed directly in the United States by Cesar Navia a/k/a Cesar N. Moya d/b/a Cowboy Buckles Navia and Furia Salvaje.

### **III. Description of the Injury to Bob Berg and Bob Berg Buckles.**

As a result of the counterfeit products and the activity related thereto, Bob Berg has lost sales to HyOSilver and the like. Likewise, Bob Berg has been forced to drop prices on its products in order to compete with the counterfeit products, all resulting in lost profits and injury to Bob Berg.